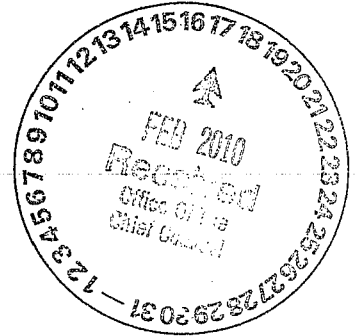


Adam Keats (SBN 191157)
D. Adam Lazar (SBN 237485)
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Linda Mackay
Tri-County Watchdogs
P.O. Box 2458
Frazier Park, CA 93225
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via Electronic Mail and First Class Mail

BEFORE THE STATE WATER RESOURCES CONTROL BOARD

In the Matter of Water Quality Certification and General Waste Discharge Requirements for Tejon Mountain Village LLC) SWRCB FILE NO. _____
)	PETITION FOR REVIEW
)	
)	
)	
)	
)	
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)	

Pursuant to California Water Code Section 13320 and Title 23 of the California Code of Regulations Sections 2050 and 3867, the Center for Biological Diversity and the Tri-County Watchdogs ("Petitioners") petition the State Water Resources Control Board ("State Board") to review the final decision of the California Regional Water Quality Control Board for the Central Valley ("Regional Board") to issue an Order for Technically-Conditioned Certification pursuant to Section 401 of the Clean Water Act for Tejon Mountain Village development project ("Project") in Kern County, California, issued January 14, 2010.

Petitioners seek the State Board to review the Regional Board's action on grounds that the Regional Board failed to consider or include water quality impacts for Castac Lake and Grapevine Creek, both jurisdictional waters of the State which experience significant water quality degradation as a result of the Project.

I. NAME AND ADDRESS OF THE PETITIONERS

Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
Attn: Adam Keats
akeats@biologicaldiversity.org

Tri-County Watchdogs
P.O. Box 2458
Frazier Park, CA 93225
Attn: Linda Mackay
in_tules@yahoo.com

II. THE SPECIFIC ACTION OR INACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW AND A COPY OF ANY ORDER OR RESOLUTION OF THE REGIONAL BOARD WHICH IS REFERRED TO IN THIS PETITION

Petitioners seek review of a Technically-Conditioned Approval of Water Quality Certification by the Central Valley Water Quality Control Board ("CVRWQCB") for Tejon Mountain Village LLC, RN# 390.

A copy of the January 14, 2010 Executive Officer Pamela Creedon's approval letter from the Regional Board to Steve Letterly Tejon Mountain Village for Section 401 Water Quality Certification is attached as Attachment A.

III. THE DATE ON WHICH THE REGIONAL BOARD ACTED OR REFUSED TO ACT OR ON WHICH THE REGIONAL BOARD WAS REQUESTED TO ACT

The Executive Officer for the Central Valley Regional Water Quality Control Board issued its Order for Technically-conditioned § 401 Certification for Tejon Mountain Village on January 14, 2010.

IV. A FULL AND COMPLETE STATEMENT OF THE REASONS THE ACTION OR FAILURE TO ACT WAS INAPPROPRIATE OR IMPROPER

The § 401 Water Quality Certification for Tejon Mountain Village ("TMV") fails to consider the two most important jurisdictional waters affected by the project: Castac Lake and Grapevine Creek. TMV is a planned exclusive mountain community with golf courses, hotels, and approximately 3,450 homes to be built around Castac Lake. Although promotional materials regarding the development routinely featured the lake, often including illustrations of recreational activities using the waters, Castac Lake was omitted from the project's environmental review documents by Tejon Ranch after the Corps' Jurisdictional Determination declared it a jurisdictional water of the United States. Yet the major water quality impacts to Castac Lake (and its primary outflow, Grapevine Creek) that would be caused by the TMV project remain undisclosed and unaddressed. These waters must be included in TMV's § 401 Water Quality Certification, and all impacts caused by the project must be fully disclosed and considered.

Castac Lake was analyzed historically in U.S. Department of War geographical surveys as an ephemeral saline sag pond. See Comment letter from Doug Peters, Tri-County Watchdogs, to Kern County Planning Department, Re "Draft Environmental Impact Report, Tejon Mountain Village Project, Kern County" (Attachment 'E'), at p.3. Precipitation and runoff would fill the lake in wet months, some years so much that it would spill into Grapevine Creek, while in dry months its water would evaporate, exposing salt flats in particularly dry

years. Since 2001, however, Tejon Ranch has artificially filled the lake, pumping groundwater into it to maintain an artificially large and consistent water level as well as aerating and oxygenating it to prevent deaths of stocked fish. These efforts have long been associated with Tejon's desire to facilitate development of the area. See Id.

The lakebed and surrounding soils of Castac Lake are rich in selenium and other trace toxins, concentrations of which in Castac Lake are likely rising as its level is maintained year-to-year and season-to-season. This artificially high water level also increases the likelihood that the lake will discharge into Grapevine Creek during wet years, increasing the creek's exposure to the salts and toxins present in the lake. The Project developer's own research concludes that water quality is degraded from discharges from Castac Lake. See Vera Nelson, P.E., Erler & Kalinowski, Inc., to Roberta Marshall, Tejon Mountain Village LLC, "Preliminary Estimate of Tejon [*sic*] Lake Water Balance and Salt Balance Used to Estimated [*sic*] Surface Runoff Volumes to Castac Lake." (July 9, 2009) at p.3. In addition, Doug Peters of the Tri-County Watchdogs compiled and analyzed extensive documentation on water quality impacts to Castac Lake, as part of the Tri-County Watchdogs; comments on the Tejon Mountain Village EIR. (Attachment 'E' at pp. 5-7). Both the lake's continual drain on the depleted groundwater aquifer and its toxic impacts on surrounding waters have been long-standing concerns of the Grapevine community which the Board should address in this § 401 Certification.

The discharge of salts, selenium, and other toxins into Grapevine Creek degrades the water quality of Grapevine Creek and impairs beneficial uses, and also degrades the quality of the wetland habitat located downstream, including in Fort Tejon State Park. In fact, the State Park is now identified as a Flood Risk Zone. See Comment Letter from Kathy Weatherman,

Superintendent, California State Parks, to Kern County Planning Commission, Re Draft Environmental Impact Report, Tejon Mountain Village (July 13, 2009) (Attachment 'G'), at p.2-

3. The State Parks comment letter also points out direct impacts from the TMV project on Grapevine Creek. The Center believes these impacts should be addressed by the § 401 Certification and a monitoring program be established for Grapevine Creek. See Id. The impact to Grapevine Creek by Castac Lake itself requires a § 301 NPDES permit for discharge of a pollutant into jurisdictional waters. See S.D. Warren v. Maine Board of Environmental Protection (2006) 547 U.S. 370, 385 (Clean Water Act is not limited to "addition of pollutants," and includes "the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.") Thus there are major water quality impacts to Castac Lake and Grapevine Creek as a result of this project, even before residential construction begins.

Of course, Tejon Ranch's proposed development of at least 5,082 acres of commercial and residential facilities surrounding Castac Lake will result in additional major impacts to the lake, such as construction-related siltation, oil and other toxic pollution related to high automobile use of the immediate area, and pesticide/herbicide pollution from surrounding residential commercial lots. The project's impacts to Castac Lake have been documented and acknowledged by both Kern County and CVRWQCB. See Comment letter from CVRWQCB to Kern County Planning Department, Re "Draft Environmental Impact Report, Tejon Mountain Village Project, Kern County, SCH#2005101018" (July 13, 2009) (Attachment 'D'); See also Comment letters from Aaron Leicht, Kern County Engineering and Survey Department, to Kern County Planning Department, (Attachment 'H') (describing run-off impacts to Castac Lake and recommending the County deny TMV's proposed exemptions to run-off controls). However,

these impacts are entirely ignored in the § 401 Certification.

These impacts, necessarily caused by the TMV project, must be disclosed and considered in any § 401 Certification process for the project. The Regional Board should also include conditions in the Certification that maintain beneficial uses and prevent water quality degradation for Castac Lake and Grapevine Creek.

V. THE MANNER IN WHICH PETITIONERS ARE AGGRIEVED

The Center for Biological Diversity ("CBD") is a non-profit, membership-based public interest organization dedicated to protecting plant and animal species biodiversity through advocacy for and enforcement of natural resource protections throughout the United States. The Tri-County Watchdogs is a non-profit, membership-based community organization dedicated to preservation and conservation in the Grapevine Community, including the towns of Frazier Park, Pine Mountain Club, Gorman, and Lebec. Both CBD and Tri-County Watchdogs have members who live in the immediate area of the TMV project, Castac Lake, and Grapevine Creek.

Petitioners have organizational interests in protecting the water quality of the wetlands, creeks, and streams, and lakes of Tejon Ranch and the surrounding area, including Castac Lake and Grapevine Creek. As such, Petitioners have a direct interest in the proper implementation of Section 401 Water Quality Certification. The Regional Board's approval of the Tejon Mountain Village project will negatively impact Castac Lake and other jurisdictional waters, thereby harming Petitioners.

VI. THE SPECIFIC ACTION BY THE STATE OR REGIONAL BOARD WHICH PETITIONER REQUESTS

Petitioners seek an order by the State Board both revoking permission and remanding the order approving § 401 Water Quality Certification for Tejon Mountain Village to the

CVRWQCB, with instructions for the Regional Board to fully consider and mitigate water quality impacts to Castac Lake and Grapevine Creek from the project. Petitioner also requests that the State Board direct the CVRWQCB to require a federal § 301 NPDES permit, and impose State Waste Discharge Requirements, for discharges from Castac Lake into Grapevine Creek, as a condition for water quality certification.

VII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION

Section 401 of the Clean Water Act requires every applicant for a federal permit or licensee for an activity that may result in a discharge of pollutants to a water of the United States to obtain certification that the proposed activity, including CWA § 404 permits, will comply with State water quality standards. See, e.g., SWRCB, Water Quality Order No. 2003-0017-DWQ. Under § 401, the State must certify that the activities authorized by the § 404 permit will not adversely affect water quality. Friends of the Earth v. United States Navy (9th Cir. 1988) 841 F.2d 927, 929-30. Here, the activity prospectively authorized by the Corps' § 404 permit is the construction of Tejon Mountain Village.

The Water Board may condition § 401 Water Quality certification upon "any limitations necessary to ensure compliance with state water quality standards or any other 'appropriate requirement of State law.'" P.U.D. No. 1 v. Washington Department of Ecology (1994) 511 U.S. 700, 714. The applicable water quality standards for Tejon Mountain Village are set forth in the Water Quality Control Plan for the Sacramento and San Joaquin River Basin (Basin Plan). (Central Valley Regional Water Quality Control Board, Water Quality Control Plan (Basin Plan) for the Sacramento River Basin and the San Joaquin River Basin (2007).) The Basin Plan designates the beneficial uses of waters to be protected along with the water quality objectives

necessary to protect those uses that together comprise the water quality standards. The Basin Plan lists municipal and domestic supply, agricultural supply, hydropower generation, water contact recreation, non-contact water recreation, warm freshwater habitat, cold freshwater habitat, and wildlife habitat as beneficial uses for Castac Lake and Grapevine Creek. These uses are described in the CVRWQCB's July 13, 2009 comment letter to Kern County Planning Department regarding Castac Lake. (Attachment 'D'). The State Water Board analyzes the Project's overall effect on water quality and includes conditions in the certification, if necessary, to adequately protect the designated beneficial uses identified in the Basin Plan. In addition, the Board must ensure that discharges into jurisdictional waters will not degrade water quality. See State Resolution 68-16 "Statement of Policy With Respect to Maintaining High Quality of Waters in California;" ("State Anti-Degradation Policy"); 40 C.F.R. § 131.12. Conditions should be imposed by the Water Board in the TMV §401 Certification for protection of beneficial uses and prevention of water quality degradation for Castac Lake and Grapevine Creek, so that the project and its discharges comply with the Sacramento Basin Plan and all applicable water quality standards.

California Water Code § 13260 requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State, file a report of waste discharge. The Regional Board then prescribes waste discharge requirements for the proposed or existing discharges, unless WDR's are waived pursuant to Cal. Water Code § 13269. These WDR's should be prescribed for discharges into Castac Lake and Grapevine Creek from the TMV project.

VIII. STATEMENT THAT THE PETITION HAS BEEN SENT TO THE APPROPRIATE REGIONAL BOARD AND TO THE DISCHARGERS IF NOT THE PETITIONER

A true and correct copy of this petition, without attachment, was sent via First Class Mail on this date to Pamela Creedon, Executive Director, Central Valley Regional Water Quality Control Board. A true and correct copy of this petition, without attachment, was also sent via First Class Mail on this date to the Applicant, Steve Letterley, Vice President of Entitlements, Tejon Mountain Village LLC, P.O. Box 1000, Lebec, CA 93243.

IX. SUMMARY OF MANNER IN WHICH AND TO WHAT EXTENT PETITIONERS PARTICIPATED IN PROCESS.

Tri-County Watchdogs

In June, 2009, Linda Mackay of the Tri-County Watchdogs wrote CVRWQCB to express her concerns with water quality impacts from the Tejon Mountain Village project. See Attachment 'B.' (Correspondence with Tri-County Watchdogs). Specifically, the letter noted the historical degradation of water quality due to filling Castac Lake, and that the lake should be included in the consideration of impacts to water quality. The Regional Board responded to Ms. Mackay and promised a full investigation of Ms. Mackay's concerns (Attachment 'C'). CVRWQCB attached to its response to Ms. Mackay its comment letter to Kern County Planning Commission for the TMV Environmental Impact Report, expressing the Regional Board's own concerns with water quality impacts to Castac Lake (Attachment 'D'). Despite these concerns, the CVRWQCB issued a § 401 Water Quality Certification without so much as a mention of the impacts to Castac Lake.

Center for Biological Diversity

The Center for Biological Diversity has disputed the limited assertion of jurisdiction over waters on Tejon Ranch property by Kern County and the Army Corps of Engineers. In a

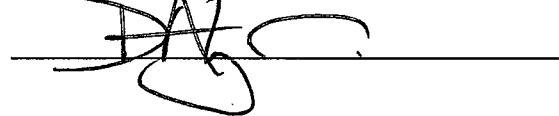
November, 2009 letter to the Army Corps, CBD explained that the jurisdictional waters of Tejon Mountain Village also include Castac Lake and Grapevine Creek. Regardless of the Corps' jurisdiction, the § 401 certification needs to consider effects on waters of the state, including Castac Lake and Grapevine Creek.

X. REQUEST TO REGIONAL BOARD FOR PREPARATION OF REGIONAL BOARD STAFF RECORDS, PURSUANT TO 23 CCR 3867(d)(9).

Attached hereto as Attachment I.

Dated: February 16, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Adam Lazar', is written over a horizontal line.

D. Adam Lazar
Center for Biological Diversity

Attachments

- A. Central Valley Regional Water Quality Control Board, Tejon Mountain Village § 401 Water Quality Certification (January 14, 2010).
- B. Letter from Linda Mackay, Tri-County Watchdogs, to Sandra Meraz, Board Member, Central Valley Regional Water Quality Control Board (June 29, 2009).
- C. Letter from Pamela Creedon, CVRWQCB, to Linda Mackay, Tri-County Watchdogs (July 27, 2009).
- D. Comment letter from CVRWQCB to Kern County Planning Department, Re "Draft Environmental Impact Report, Tejon Mountain Village Project, Kern County, SCH#2005101018" (July 13, 2009).
- E. Comment letter from Doug Peters, Tri-County Watchdogs, to Kern County Planning Department, Re Water Quality Impacts in "Draft Environmental Impact Report, Tejon Mountain Village Project, Kern County." (July 13, 2009)
- F. Memorandum from Vera Nelson, P.E., Erler & Kalinowski, Inc., to Roberta Marshall, Tejon Mountain Village LLC, "Preliminary Estimate of Tejon [*sic*] Lake Water Balance and Salt Balance Used to Estimated [*sic*] Surface Runoff Volumes to Castac Lake." (July 9, 2009)
- G. Comment Letter from Kathy Weatherman, Superintendent, California State Parks, to Kern County Planning Commission, Re Draft Environmental Impact Report, Tejon Mountain Village, Kern County (July 13, 2009).
- H. Comment letters from Aaron Leicht, Kern County Engineering and Survey Services Department, to Kern County Planning Department (July 15, 2009).
- I. Letter from Adam Lazar, Project Attorney, Center for Biological Diversity, to Central Valley Regional Water Quality Control Board, for Preparation of Staff Records, Tejon Mountain Village Water Quality Certification (February 16, 2010).

Attachment 'A'



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

14 January 2010

Steve Letterly, Vice President of Entitlements
Tejon Mountain Village, LLC
P.O. Box 1000
Lebec, CA 93243

ACTION ON REQUEST FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS ASSOCIATED WITH THE TEJON MOUNTAIN VILLAGE PROJECT, KERN COUNTY

APPLICANT: Tejon Mountain Village, LLC

PROJECT: Refer to Attachment 1 and Attachment 2 for Project Information

ACTION:

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-conditioned Certification
3. ☐ Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and Section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action is conditional upon total payment of the full fee required under 23 CCR Section 3833, unless otherwise stated in writing by the certifying agency.

Steve Letterly, Vice President of Entitlements
Tejon Mountain Village, LLC

- 2 -

14 January 2010

4. This Certification is valid for five years, or until the expiration and/or withdrawal of the U.S. Army Corps Section 404 permit, whichever comes first. This Certification may be extended by the request of Tejon Mountain Village, LLC, prior to the expiration date. Tejon Mountain Village, LLC, shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing within 7 days of project completion.

TECHNICAL CONDITIONS (for Certification Action 2):

In addition to the four standard conditions, Tejon Mountain Village, LLC, shall satisfy the following:

1. A finalized Streambed Alteration Agreement must be issued by the California Department of Fish and Game before this project may proceed. A copy of the finalized Streambed Alteration Agreement shall be submitted to the Central Valley Water Board.
2. Pursuant to California Water Code section 13267, by 1 June of each year, submit a report to the Central Valley Water Board describing impacts to waters of the U.S. during the previous calendar year. Include in the report before and after photographs of each impact area. Also include in the report a description of impacts to waters of the U.S. (acreage and location) included in the 0.5 acre of undefined potential impacts due to construction of custom homes, and include a progress report on activities at the mitigation site.

CENTRAL VALLEY WATER BOARD CONTACT PERSON:

Debra Bates, Water Resources Control Engineer
(559) 445-6281
dbates@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

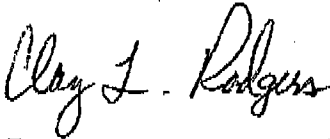
I hereby issue an order certifying that the proposed discharge from the Tejon Mountain Village project will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Water Quality Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)," which is enclosed.

Steve Letterly, Vice President of Entitlements
Tejon Mountain Village, LLC

- 3 -

14 January 2010

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigations being completed in strict compliance with the applicant's project description and the attached Project Information Sheets (Attachment 1 and Attachment 2), and (b) compliance with all applicable requirements of the Central Valley Water Board's *Water Quality Control Plan for the Tulare Lake Basin, Second Edition, Revised January 2004*.



for Pamela C. Creedon
Executive Officer

Enclosures: Project Information (Attachment 1 and Attachment 2)
Water Quality Order No. 2003-0017-DWQ

cc: Jason Brush, Supervisor, Wetlands Regulatory Office, U.S. Environmental Protection Agency, Region 9, San Francisco
Paul Maniccia, Chief, Sacramento South Branch, Regulatory Unit, Department of the Army, Corps of Engineers, Sacramento
Bill Orme, Water Quality Certification Unit Chief, Division of Water Quality, State Water Resources Control Board, Sacramento
Jeffrey Single, Regional Manager, San Joaquin Valley-Southern Sierra Region, California Department of Fish and Game, Fresno
Megan Enright, Project Manager, Dudek, Encinitas
Linda MacKay, President, Tri-County Watchdogs, Frazier Park

**ATTACHMENT 1
PROJECT INFORMATION**

Application Date: 16 November 2009

Applicant: Tejon Mountain Village, LLC (TMV)

Applicant Representatives: Steve Letterly, Vice President of Entitlements

Project Name: Tejon Mountain Village Project

Applicant Number: RN #390

Project Location: Multiple locations as shown in Attachment 2

Project Duration: January 2010 through January 2015

County: Kern

**Receiving Water(s)
(hydrologic unit):** West Side Streams, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)

Water Body Type: Ephemeral drainages and wetlands

Designated Beneficial Uses: The designated beneficial uses of West Side Streams are: agricultural supply; industrial service supply; industrial process supply; water contact recreation; non-contact water recreation; warm freshwater habitat; wildlife habitat; rare, threatened, or endangered species; and groundwater recharge.

Project Description: The project involves developing a 26,417 acre mountain resort community. Housing will include 3,450 residences with a mix of large-lot single-family home sites, clustered single-family home sites, duplexes, triplexes, quadri-plexes, apartments, condominiums, and townhouses. Some of the housing units will be "production" homes, designed and constructed by retail builders, and some of the housing units will be "custom" homes, developed individually by landowners over time.

The project will include up to 160,000 square feet of commercial development, and up to 350,000 square feet of integrated resort facilities including various hotel, spa, and resort facilities, up to 750 lodging units, two 18-hole golf courses, riding and hiking trails, equestrian facilities, two helipads, a fire station, private community

Attachment 1

Tejon Mountain Village, LLC
Tejon Mountain Village Project

centers, and utilities. Infrastructure components of the project include electrical substation facilities, water treatment and wastewater treatment facilities, and roads. A total of 21,335 acres will be preserved as open space.

**Preliminary Water
Quality Concerns:**

Increased turbidity, deposition of settleable material, and transport of pollutants to the various waterways.

**Proposed Mitigation
To Address Concerns:**

Best Management Practices (BMPs) will be implemented during construction. All temporarily affected areas will be restored to pre-project contours and conditions upon completion of work activities.

In areas of permanent impact, engineered drainage systems will be installed with storm water treatment controls such as vegetated swales, bioretention areas, flow duration control basins, and water quality basins. Low Impact Development principles will be utilized to reduce storm water runoff from developed areas. Environmental awareness education will be provided to residents.

The project's conditions, covenants, and restrictions (CC&R's), applicable to all private residences, commercial areas, and recreational areas, will include requirements to protect water quality.

A comprehensive landscape management plan will be developed for common areas that will include integrated pest management (IPM) guidelines. Irrigation systems will be required to include low-precipitation devices, and landscape plantings will be required to be selected from an approved plant palette including drought tolerant and indigenous species that require less fertilizer.

Fill/Excavation Area:

The project will result in permanent impacts of 1.18 acres to jurisdictional wetlands; permanent impacts of 1.00 acre to riparian areas; permanent impacts of 1.00 acre to unvegetated streambeds; and temporary impacts of 0.37 acre to unvegetated streambeds. The impacts are further detailed in Attachment 2. The impacts may also include up to 0.5 acre of waters of the U.S. due to construction of custom homes.

Dredge Volume (cy):

None

**U.S. Army Corps of
Engineers Permit:**

TMV applied for an individual permit on 13 November 2009.

Attachment 1
Tejon Mountain Village, LLC
Tejon Mountain Village Project

3

**Department of Fish
and Game Streambed
Alteration Agreement:**

TMV applied for a Streambed Alteration Agreement on
13 November 2009.

CEQA Compliance:

TMV prepared an Environmental Impact Report (No. 2005101018)
and filed a Notice of Determination with the State Clearinghouse on
29 October 2009.

**Compensatory
Mitigation:**

TMV submitted a Draft Conceptual Wetlands Mitigation and
Monitoring Plan on 24 December 2009. The plan proposes that
compensatory mitigation for permanent impacts to waters of the
U.S. be included in a larger mitigation site designed to offset
impacts for multiple permits. For impacts to waters of the U.S., the
mitigation site includes creation of 2.09 acres of jurisdictional
wetland, 1.33 acres of riparian habitat, and 5.97 acres of
unvegetated streambed; restoration of 1.89 acres of jurisdictional
wetland, 0.11 acre of riparian habitat, and 0.37 acre of unvegetated
streambed; and enhancement of 2.66 acres of riparian habitat.

**Application Fee
Provided:**

A fee of \$40,000.00 was submitted on 16 November 2009, as
required by 23 CCR Section 3833(b)(2)(A).

**ATTACHMENT 2
PROJECT FEATURE LOCATIONS**

Feature ID	Type	Impact Area in Acres	Impact Area in Square Feet	Section	Township and Range	Longitude	Latitude	Receiving Water Hydrologic Unit
1	Ephemeral	0.09 Permanent	3,874	NA	NA	-118.83062023100	34.84144209060	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
2	Ephemeral	0.01 Permanent	463	NA	NA	-118.83062023100	34.84144209060	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
3	Ephemeral	0.06 Permanent	2,793	NA	NA	-118.83062023100	34.84144209060	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
4	Ephemeral	0.02 Permanent	753	NA	NA	-118.83027141400	34.84193005410	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
5	Ephemeral	0.07 Permanent	2,871	NA	NA	-118.83001089200	34.84224998820	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
6	Ephemeral	0.01 Permanent	491	NA	NA	-118.82979783300	34.84250172010	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
7	Ephemeral	Less than 0.01 Permanent	162	NA	NA	-118.82816303000	34.84412393540	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
8	Ephemeral	Less than 0.01 Permanent	173	NA	NA	-118.82742206800	34.84596753630	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
9	Ephemeral	0.03 Permanent	1,242	NA	NA	-118.83505180900	34.83401984590	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)

**ATTACHMENT 2
PROJECT FEATURE LOCATIONS**

Feature ID	Type	Impact Area in Acres	Impact Area in Square Feet	Section	Township and Range	Longitude	Latitude	Receiving Water Hydrologic Unit
10	Ephemeral	0.11 Permanent	4,955	NA	NA	-118.83242191700	34.83283002930	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
11	Ephemeral	0.02 Permanent	695	NA	NA	-118.83107998500	34.82204243220	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
12	Ephemeral	0.03 Permanent	1,237	NA	NA	-118.83107998500	34.82204243220	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
13	Ephemeral	0.02 Permanent	683	NA	NA	-118.82913198800	34.82070169260	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
14	Ephemeral	0.01 Permanent	314	31	09N 18W	-118.82964407400	34.82019494920	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
15	Ephemeral	Less than 0.01 Permanent	6	31	09N 18W	-118.82964407400	34.82019494920	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
16	Ephemeral	0.11 Permanent	4,753	31	09N 18W	-118.82911666800	34.81932041400	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
17	Ephemeral	0.01 Permanent	521	31	09N 18W	-118.82911666800	34.81932041400	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
18	Ephemeral	Less than 0.01 Permanent	3	NA	NA	-118.80163192100	34.85301654580	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)

**ATTACHMENT 2
PROJECT FEATURE LOCATIONS**

Feature ID	Type	Impact Area In Acres	Impact Area in Square Feet	Section	Township and Range	Longitude	Latitude	Receiving Water Hydrologic Unit
19	Ephemeral	0.01 Permanent	468	NA	NA	-118.81806369600	34.83467952830	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
20	Ephemeral	0.01 Permanent	340	NA	NA	-118.81781842300	34.83544550270	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
21	Ephemeral	0.02 Permanent	690	NA	NA	-118.81665909000	34.83297952050	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
22	Ephemeral	0.01 Permanent	242	NA	NA	-118.81471864700	34.84055495900	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
23	Ephemeral	0.01 Permanent	427	NA	NA	-118.81118761400	34.84620122520	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
24	Ephemeral	0.01 Permanent	589	NA	NA	-118.82648675900	34.82760796780	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
25	Ephemeral	0.03 Permanent	1,421	NA	NA	-118.82045601900	34.82543159130	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
26	Ephemeral	0.01 Permanent	374	NA	NA	-118.82045601900	34.82543159130	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
27	Ephemeral	0.02 Permanent	937	NA	NA	-118.81841039500	34.82494998460	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)

**ATTACHMENT 2
PROJECT FEATURE LOCATIONS**

Feature ID	Type	Impact Area in Acres	Impact Area in Square Feet	Section	Township and Range	Longitude	Latitude	Receiving Water Hydrologic Unit
28	Ephemeral	Less than 0.01 Permanent	56	NA	NA	-118.81841039500	34.82494998460	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
29	Ephemeral	0.01 Permanent	610	NA	NA	-118.81658964000	34.82368394060	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
30	Ephemeral	Less than 0.01 Permanent	193	NA	NA	-118.83312086900	34.82926149000	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
31	Ephemeral	Less than 0.01 Permanent	Less than 1	35	09N 19W	-118.86339442700	34.82850835430	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
32	Ephemeral	0.13 Temporary 0.02 Permanent	6,335	35	09N 19W	-118.85700827900	34.82886647310	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
33	Ephemeral	0.24 Temporary 0.04 Permanent	12,138	35	09N 19W	-118.85650211700	34.82909009860	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
165	Wetland	0.66 Permanent	28,832	NA	NA	-118.85715404700	34.84058674230	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
166	Wetland	0.17 Permanent	7,360	NA	NA	-118.83935371900	34.83201705480	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
167	Wetland	0.12 Permanent	5,185	NA	NA	-118.83688166500	34.83546395430	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)

**ATTACHMENT 2
PROJECT FEATURE LOCATIONS**

Feature ID	Type	Impact Area in Acres	Impact Area in Square Feet	Section	Township and Range	Longitude	Latitude	Receiving Water Hydrologic Unit
168	Wetland	0.01 Permanent	398	NA	NA	-118.82999741700	34.84231868470	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
169	Wetland	0.25 Permanent	10,715	NA	NA	-118.82456284000	34.84734038700	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
170	Wetland	0.68 Permanent	29,437	NA	NA	-118.82161851100	34.84877465290	West Side Stream, Tulare Lake Hydrologic Basin, Grapevine Hydrologic Unit, San Emigdio Hydrologic Area (# 556.30)
Extra	To be determined	Up to 0.5 acres	N/A	N/A	N/A	N/A	N/A	Up to 0.5 acres of waters of the U.S. may be impacted by the construction of custom homes. The precise location and acreage of each impact area will be determined when the custom home sites are developed over time.

STATE WATER RESOURCES CONTROL BOARD**WATER QUALITY ORDER NO. 2003 - 0017 - DWQ****STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR
DREDGED OR FILL DISCHARGES THAT HAVE RECEIVED
STATE WATER QUALITY CERTIFICATION (GENERAL WDRs)**

The State Water Resources Control Board (SWRCB) finds that:

1. Discharges eligible for coverage under these General WDRs are discharges of dredged or fill material that have received State Water Quality Certification (Certification) pursuant to federal Clean Water Act (CWA) section 401.
2. Discharges of dredged or fill material are commonly associated with port development, stream channelization, utility crossing land development, transportation water resource, and flood control projects. Other activities, such as land clearing, may also involve discharges of dredged or fill materials (e.g., soil) into waters of the United States.
3. CWA section 404 establishes a permit program under which the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged or fill material into waters of the United States.
4. CWA section 401 requires every applicant for a federal permit or license for an activity that may result in a discharge of pollutants to a water of the United States (including permits under section 404) to obtain Certification that the proposed activity will comply with State water quality standards. In California, Certifications are issued by the Regional Water Quality Control Boards (RWQCB) or for multi-Region discharges, the SWRCB, in accordance with the requirements of California Code of Regulations (CCR) section 3830 et seq. The SWRCB's water quality regulations do not authorize the SWRCB or RWQCBs to waive certification, and therefore, these General WDRs do not apply to any discharge authorized by federal license or permit that was issued based on a determination by the issuing agency that certification has been waived. Certifications are issued by the RWQCB or SWRCB before the ACOE may issue CWA section 404 permits. Any conditions set forth in a Certification become conditions of the federal permit or license if and when it is ultimately issued.
5. Article 4, of Chapter 4 of Division 7 of the California Water Code (CWC), commencing with section 13260(a), requires that any person discharging or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the State,¹ file a report of waste discharge (ROWD). Pursuant to Article 4, the RWQCBs are required to prescribe waste discharge requirements (WDRs) for any proposed or existing discharge unless WDRs are waived pursuant to CWC section 13269. These General WDRs fulfill the requirements of Article 4 for proposed dredge or fill discharges to waters of the United States that are regulated under the State's CWA section 401 authority.

¹ "Waters of the State" as defined in CWC Section 13050(e)

6. These General WDRs require compliance with all conditions of Certification orders to ensure that water quality standards are met.
7. The U.S. Supreme Court decision of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001) (the *SWANCC* decision) called into question the extent to which certain "isolated" waters are subject to federal jurisdiction. The SWRCB believes that a Certification is a valid and enforceable order of the SWRCB or RWQCBs irrespective of whether the water body in question is subsequently determined not to be federally jurisdictional. Nonetheless, it is the intent of the SWRCB that all Certification conditions be incorporated into these General WDRs and enforceable hereunder even if the federal permit is subsequently deemed invalid because the water is not deemed subject to federal jurisdiction.
8. The beneficial uses for the waters of the State include, but are not limited to, domestic and municipal supply, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources.
9. Projects covered by these General WDRs shall be assessed a fee pursuant to Title 23, CCR section 3833.
10. These General WDRs are exempt from the California Environmental Quality Act (CEQA) because (a) they are not a "project" within the meaning of CEQA, since a "project" results in a direct or indirect physical change in the environment (Title 14, CCR section 15378); and (b) the term "project" does not mean each separate governmental approval (Title 14, CCR section 15378(c)). These WDRs do not authorize any specific project. They recognize that dredge and fill discharges that need a federal license or permit must be regulated under CWA section 401 Certification, pursuant to CWA section 401 and Title 23, CCR section 3855, et seq. Certification and issuance of waste discharge requirements are overlapping regulatory processes, which are both administered by the SWRCB and RWQCBs. Each project subject to Certification requires independent compliance with CEQA and is regulated through the Certification process in the context of its specific characteristics. Any effects on the environment will therefore be as a result of the certification process, not from these General WDRs. (Title 14, CCR section 15061(b)(3)).
11. Potential dischargers and other known interested parties have been notified of the intent to adopt these General WDRs by public hearing notice.
12. All comments pertaining to the proposed discharges have been heard and considered at the November 4, 2003 SWRCB Workshop Session.
13. The RWQCBs retain discretion to impose individual or general WDRs or waivers of WDRs in lieu of these General WDRs whenever they deem it appropriate. Furthermore, these General WDRs are not intended to supersede any existing WDRs or waivers of WDRs issued by a RWQCB.

IT IS HEREBY ORDERED that WDRs are issued to all persons proposing to discharge dredged or fill material to waters of the United States where such discharge is also subject to the water quality certification requirements of CWA section 401 of the federal Clean Water Act (Title 33 United States Code section 1341), and such certification has been issued by the applicable RWQCB or the SWRCB, unless the applicable RWQCB notifies the applicant that its discharge will be regulated through WDRs or waivers of WDRs issued by the RWQCB. In order to meet the provisions contained in Division 7 of CWC and regulations adopted thereunder, dischargers shall comply with the following:

1. Dischargers shall implement all the terms and conditions of the applicable CWA section 401 Certification issued for the discharge. This provision shall apply irrespective of whether the federal license or permit for which the Certification was obtained is subsequently deemed invalid because the water body subject to the discharge has been deemed outside of federal jurisdiction.
2. Dischargers are prohibited from discharging dredged or fill material to waters of the United States without first obtaining Certification from the applicable RWQCB or SWRCB.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 19, 2003.

AYE: Arthur G. Baggett, Jr.
Peter S. Silva
Richard Katz
Gary M. Carlton
Nancy H. Sutley

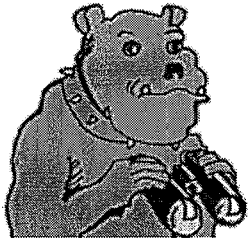
NO: None.

ABSENT: None.

ABSTAIN: None.


Debbie Irvin
Clerk to the Board

Attachment 'B'



TriCounty Watchdogs

*...protecting mountain resources and communities
in Kern, Los Angeles, and Ventura Counties.*

Sandra Meraz
Central Valley RWQCB

Date 6/29/09

Dear Sandra,

TCW
P.O. Box 2458
Frazier Park
California 93225
tcwdogs@frazmtn.com
www.tcwdogs.org

I'm writing to you in your capacity as a California Central Valley Regional Water Quality Control Board member. Since we've been friends for a long time, you're aware that I'm currently living in Lebec, California. I understand that Lebec is in the very southern region of the CCVRWQCB's boundaries.

I am currently the president of a local environmental community organization called The TriCounty Watchdogs (TCW). TCW has members from, and concerns involving, the communities in the south/west portion of Kern County (Lebec, Frazier Park, Lake of the Woods, Pinon Pines and Pine Mountain Club) - the north/west corner of Los Angeles County (Gorman and Neenach) and the north/east corner of Ventura County (Lockwood Valley). All of our mountain communities are in close proximity to the Grapevine portion of Interstate 5. Our communities of concern are all unincorporated and, as you well know, unincorporated regions often have a great deal of difficulty getting the appropriate attention they need from their government representatives.

The reason I am writing you today is because TCW has a specific concern in the community of Lebec that involves water that we feel is putting the health and well being of the residents in our region at risk. We also believe that no governmental agency or representative body is taking the proper steps to protect the interests of the people who are being impacted by these current activities.

The area of concern that I refer to is on Tejon Ranch property. As you may be fully aware, Tejon Ranch owns a great deal of property in my region. Tejon Ranch has various development plans on their property. The development plan that involves the concern of this letter is around the Castac lake in Lebec. Castac lake has been a streambed runoff catch basin for our

TriCounty Watchdogs

*...protecting mountain resources and communities
in Kern, Los Angeles, and Ventura Counties.*

TCW
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region. Naturally, Castac was a seasonal lake that was often no more than a marshy swamp area that supplied a thriving environment for wetland wildlife. But in the last few years, Tejon Ranch has been using groundwater to keep the lake full year round. The reason they have been artificially maintaining the lake's capacity is because the ranch has been in the process of developing plans for a luxury housing development to be built around the lake. Our community members have heard reports that the lake has been dredged to reduce it's salinity and to enlarge its capacity. Also we understand that it is being aerated and manipulated in other ways to maintain it's aesthetic value for future sales of the planned homes. TriCounty Watchdogs and other community members are concerned about the volume of groundwater that is being used by Tejon Ranch to maintain Castac Lake artificially. We fear that Tejon Ranch is using a great deal of groundwater to compensate for the loss of water through evaporation and also to flush through the lake to keep it in a state of viability. Naturally this lake was known as a "soda-lake" and the unnatural manipulation has totally changed its ecological nature. The lake and the wells that are used to maintain the artificial elevation of the lake are all under the Tejon-Castac Water District. Tejon Ranch executives make-up the board of the Tejon-Castac Water District. The implications of how the groundwater is being used to turn what would naturally be an ephemeral lake into a permanent lake (for the purpose of financial gain) and Tejon Ranch executives controlling the water district board seems like a real conflict of interests to many local residents.

Recently, Tejon Ranch released the Draft Environmental Impact Report (DEIR) for the luxury housing development that I referred to earlier. This development includes approximately 3500 housing units, two golf courses and a commercial area. This development is called Tejon Mountain Village (TMV). Tejon Ranch has stated that there will be no groundwater used for the development. The houses, golf course and stores etc will use the Ranch's rights to utilize water from the Kern County and Antelope Valley water banks. Tejon claims that the lake is not part of the development and they have excluded it from the DEIR for TMV; although the lake was included in the project's earlier Notice of Preparation (NOP). The TriCounty Watchdogs and other community members believe that Tejon Ranch's claim that Castac Lake is not part of the project is a dishonest tactic that they are using to reduce environmental review and expedite the process of approval to build the large housing project. As I mentioned, the

TriCounty Watchdogs

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lake was previously included as part of the project in the earlier released NOP, and the lake was also touted as a recreational benefit to the TMV project in promotional materials that Tejon Ranch circulated in the past. The project is obviously built to surround the lake to make the lake a focal point of the project as you can see in the attachment to this letter in figure 3-8 from the TMV DEIR.

Our mountain communities are completely dependent on groundwater for our drinking and home use. Many of us in the region are concerned that the water Tejon Ranch is pulling from our local aquifer to maintain the lake could be threatening our own wells, especially in this time of long term drought. This huge draw from the local aquifer could not only impact the quantity of groundwater in our region, but also the quality.

Other concerns involving the lake and its artificial state, is that the lake can no longer serve as a catch basin for run off. In 2005 there was a large flood downstream from the lake that caused thousands of dollars worth of damage to property at the Fort Tejon State Park, our local middle school in Lebec (school children actually had to be sent home early from school one day in the middle of the flooding) and to local county roads downstream from the lake. Many of us are convinced that this event would not have happened if the lake had been in its natural state and had been able to take in all of the runoff water. The TriCounty Watchdogs and others are convinced it's very likely this kind of incident will happen periodically. How can such a large corporation like Tejon Ranch alter the natural water flow in a region and create such a dangerous situation for the neighboring residents without any consequences or review?

The TriCounty Watchdogs also believe that the water quality of the lake has been compromised as has the water quality of Grapevine creek, which is downstream from the lake. The TMV DEIR shows very poor water quality in Grapevine Creek near the lake, with improvement at sampling sites farther away as it mixes with other sources. It seems to us that someone in an official capacity should be aware of all that is happening in the manipulation of this relatively large body of water.

Sandra, I'm writing you this letter asking for you to help us if you possibly can. We need for the Central Valley Regional Water Board to investigate

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TriCounty Watchdogs

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the Castac Lake situation. We need a formal investigation into what is happening with our local water supply.

I appreciate your serious commitment to protecting the interests of the ordinary people who are so very dependent on the various agencies who oversee the water we too often take for granted. I hope you will forward this letter to your colleagues and the staff of your board and you and the other representatives will investigate our concern.

I look forward to hearing from you on this matter.

Sincerely,

Linda MacKay, President
TriCounty Watchdogs

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Attachment 'C'



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

1685 E Street, Fresno, California 93706
(559) 445-5116 • Fax (559) 445-5910
<http://www.waterboards.ca.gov/centralvalley>



Arnold
Schwarzenegger
Governor

27 July 2009

Linda MacKay, President
TriCounty Watchdogs
P.O. Box 2458
Frazier Park, CA 93225

TEJON MOUNTAIN VILLAGE PROJECT, KERN COUNTY

Thank you for your 29 June letter addressed to Board Member Sandra Meraz expressing the concerns of TriCounty Watchdogs (TriCounty) about the proposed Tejon Mountain Village (TMV) project near Lebec and current management of Castac Lake. The Central Valley Regional Water Quality Control Board, (Regional Water Board) has prepared a response on behalf of Ms. Meraz.

Your letter requests that the Regional Water Board investigate potential impacts from activities at Castac Lake and potential impacts on the local water supply. The following summarizes TriCounty's concerns and subsequently describes actions taken and information gathered to date by Regional Board staff.

TriCounty's concerns relate primarily to Tejon Ranch Company's (TRC) reported use of groundwater to artificially maintain the level of Castac Lake as well as other lake management practices. These concerns are listed as follows:

1. The volume of groundwater that is being used to maintain lake may adversely affect the quantity and quality of groundwater for other users.
2. The lake can no longer serve as a catch basin for run off, which will result in increased downstream flooding.
3. Exclusion of Castac Lake from the "project" described in the draft Environmental Impact Report (DEIR) for the TMV project serves to reduce environmental review and expedite the process of approval to build the large housing project.
4. TriCounty has heard reports that the lake has been dredged to reduce its salinity and to enlarge its capacity without proper regulatory oversight.
5. The lake is being aerated and manipulated in other ways that have changed its ecology.
6. The conversion of the lake from ephemeral lake into a permanent lake has changed its ecology.
7. The water quality of the lake has been compromised as has the water quality of Grapevine creek, which is downstream from the lake. TriCounty comes to this conclusion based on data in the DEIR that shows very poor water quality in Grapevine Creek near the lake, with improvement at sampling sites farther away as it mixes with other sources.

On 13 July, Regional Water Board staff provided, as a responsible agency under the California Environmental Quality Act, comments on the DEIR to Kern County (copy enclosed). The comments address concerns 1, 2, and 3 above and should result in further investigation and/or clarification by Kern County and TRC. Regional Water Board staff will monitor the County's response; however, since groundwater pumping and flooding under the described conditions are issues largely outside the purview of the Regional Water Board, further investigation may require coordination with other agencies.

On 14 July, Regional Water Board staff inspected Castac Lake and the surrounding area and spoke with representatives of TRC. The inspector did not observe any evidence that TRC has dredged the lake or otherwise modified it to increase its capacity. Representatives from TRC stated that the Company has never dredged the lake. TRC did acknowledge that in 2005/2006 it did remove Sago pond weed from the lake. If you can provide evidence that TRC or any other entity has conducted unauthorized dredge or fill activities in the lake, we will review the evidence.

Regarding concerns 5 and 6, the DEIR notes that the Tejon Ranch Company has artificially maintained the lake level using groundwater since 2001 and operates an aeration system to maintain dissolved oxygen levels. Tejon Ranch Company representatives indicated in a 15 July teleconference the Company does not intend to artificially maintain the lake level. The Company also indicated that it operates the aeration system with the concurrence of the California Department of Fish and Game. Regional Water Board staff is collecting additional information regarding these matters.

Regarding concern No. 7, the data in the DEIR appears to be consistent with a hydrologic system like the Castac Lake and Grapevine Creek system. Alkali lakes are expected to have poor mineral quality due to the high evaporation rates that concentrate the salts in the lake water. Consequently, groundwater underlying alkali lakes is usually of poor quality. Based on the DEIR and information and documents referenced therein, water percolating from Castac Lake may provide some base flow for upper Grapevine Creek. This base flow would be similar in quality to the water in Castac Lake. Water quality farther down the Creek would be expected to improve as the creek gains water from fresher spring sources and surface and groundwater flows originating primarily from precipitation in tributary watersheds. Board staff is collecting additional information regarding this issue.

Thank you again for your letter. We believe the above addresses all your concerns expressed in your letter; however, if you have any questions or would like to discuss this issue further, please contact me at (559) 445-5116 or Dale Harvey, Senior Engineer on my staff at (559) 445-6190.

Sincerely,



Pamela C. Creedon
Executive Officer

Enclosure: 13 July Board letter

cc: Board Member Sandra O. Meraz, Alpaugh
Board Member Soapy Mulholland, Springville

Attachment 'D'



Linda S. Adams
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

1685 E Street, Fresno, California 93706
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Arnold
Schwarzenegger
Governor

13 July 2009

Mr. Craig Murphy
Kern County Planning Department
2700 M Street, Suite 100
Bakersfield, CA 93243

DRAFT ENVIRONMENTAL IMPACT REPORT, TEJON MOUNTAIN VILLAGE PROJECT, KERN COUNTY, SCH#2005101018

Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) staff reviewed the Water Quality section of the *Draft Environmental Impact Report* (draft EIR) for the proposed Tejon Mountain Village development, a project sited on more than 26,000 acres east of Interstate 5 and the community of Lebec, approximately 40 miles south of Bakersfield in Kern County. The project would include 3,450 residences, up to 160,000 square feet of commercial development, up to 750 vacation lodging units, two 18-hole golf courses, and up to 350,000 square feet of support facilities. The Tejon-Castac Water District would provide water and sewer services for the development.

The project description in the draft EIR mentions interim and permanent water and wastewater treatment facilities. However, the draft EIR does not provide any details for interim facilities.

The draft EIR describes a permanent, onsite wastewater treatment facility with fine screening, flow measurement, influent flow equalization, tertiary treatment with membrane bioreactors, ultraviolet disinfection, waste sludge dewatering, and sludge stabilization and drying in engineered greenhouses. The membrane bioreactors would provide nitrogen removal to a concentration of 10 mg/L or lower by means of an activated sludge nitrification/denitrification process. Treated effluent would be stored in about 60 acres of onsite ponds during wet months until it can be used for irrigation.

The two planned 18-hole golf courses would use a significant portion of the recycled water generated by the project. The final EIR should include a contingency plan that describes the impacts to water quality associated with alternative use or disposal of the wastewater treatment facility effluent in the event that one or both golf courses shut down or cannot receive effluent.

The draft EIR indicates that at full buildout, the project would utilize approximately 800 acre-feet of water per year to irrigate the golf course and other landscaped areas. A rough estimate of expected wastewater generation from the project suggests more than 1,000 acre-

California Environmental Protection Agency

The Notice of Preparation included Castac Lake as part of the project. The project site surrounds Castac Lake, but the draft EIR specifically excludes the lake as part of the project. A significant portion of the project drains to Castac Lake. The final EIR needs to fully evaluate impacts from the project on Castac Lake and Grapevine Creek. The draft EIR states that the Tejon Ranch Company has managed the lake to maintain a consistent shoreline since about 2001 and a lake aeration system in the northeastern portion of Castac Lake controls the lake's oxygen levels. The lake level has reportedly been maintained by groundwater pumping. The decreased storage capacity associated with maintaining the lake surface elevation combined with increased runoff from impermeable surfaces, synchronized tributary flow peaks, and other development-related stormwater issues increase the flooding potential of the basin. Groundwater pumping to unnaturally maintain the lake level may adversely affect groundwater quality and Grapevine Creek. The final EIR should address potential groundwater and surface water quality impacts, particularly downgradient of the lake, resulting from maintenance of the lake shoreline, lake aeration, and any other significant lake management practices.

Mitigation Measure 4.8-31 states in relevant part:

Prior to the initiation of grading, the project shall request and receive written confirmation from the Tejon Ranch Company that swimming or other contact recreational activity shall be permanently prohibited in Castac Lake and all off-site perennial or seasonal water bodies that receive runoff from the project and that are owned by the Tejon Ranch Company. The project area Geologic Hazard Abatement District...with water quality management and compliance responsibilities shall post signs and provide educational materials to project residents and guests prohibiting contact with flowing waters in on-site drainages during and following storm events to prevent pathogen exposure.

An articulated goal of the federal Clean Water Act is that waterbodies should achieve sufficient water quality to provide, "for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water..." This goal is advanced by setting designated uses (known as "beneficial uses" in California) for waterbodies, and then developing water quality standards to protect these uses. Castac Lake and its tributaries are waters of the U.S., and Castac Lake, its tributaries, and Grapevine Creek are also waters of the State. These waters are "westside streams" as defined by the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition* (Revised in 2004) (Basin Plan), and the beneficial uses of these waters are designated as agricultural supply, industrial service supply, industrial process supply, hydropower generation, **water contact recreation, non-contact water recreation**, warm freshwater habitat, wildlife habitat, rare, threatened, or endangered species, and groundwater recharge. These uses are designated as such because the water in these waterbodies was of sufficient quality to achieve these uses on the date when the amendments to the federal Clean Water Act took effect (November 28, 1975). These uses are existing uses that must be protected under federal and State law. Proscription of uses, as described in Mitigation Measure 4.8-31, is not protective of the uses. The draft EIR should include mitigation measures that ensure project activities do not adversely impact any of the designated beneficial uses of Castac Lake, its tributaries, and Grapevine Creek. Mitigation Measure 4.8-31 should be revised accordingly or deleted.

Attachment 'E'



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Craig Murphy, Supervising Planner
Kern County Planning Department
700 "M" Street., Suite 100
Bakersfield, CA 93301-2370

Date 7/13/09

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Dear Mr. Murphy,

I am a resident of the Frazier Park area and have serious concerns about the lake portion of the Tejon Mountain Village project

The modification of Castac Lake for the Tejon Mountain Village development is a major alteration of the natural environment and therefore must be analyzed in the DEIR. Without an analysis of the environmental impact of the Castac Lake modification the DEIR is incomplete and therefore fatally flawed.

After listing the lake as part of the project in the notice of preparation of the draft environmental impact report, the project proponents subsequently removed the lake and claimed that it is no longer a part of the project.

Clearly, not only is the lake a part of the project, it is the centerpiece of the project. In fact, the principal recreational and commercial components of the development encircle the lake and are immediately adjacent to it. Please refer to Figure 1-3 in the DEIR.

Tejon Ranch Company president, Bob Stine, introduced the Tejon Mountain Village project to local residents at a community meeting at Frazier Mountain High School in December of 2003. As Mr. Stine began his remarks on TMV he immediately started talking about the lake and the cost and difficulties of modifying it, and its importance to the project.

Here is what Mr. Stine said:

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"Tejon Mountain Village is the name that we're calling this third concept, Tejon Mountain Village. And it's generally the area near Castac Lake, in an area somewhere in this range. [He points to a map] There is one main road that goes in next to the lake that was built by the Department of Water Resources when the aqueduct was built back in the late '60s, '70, when it opened, so we have a main, primary artery going through. It is the only paved road inside the ranch.

And the planning area is in this area right here. The concept is a boutique, hotel, resort hotel, golf course, estate lots, some activity around the lake. Low, low impact on the lake. Kayak, canoe, no motors. You gotta windsurf, no motors. No gasoline engines. The lake is very, very sensitive.

Those of you who have lived here for a while know that back in '90 and '91, the lake went dry. In the past five years we have spent nearly a million dollars in the lake. You might say, "What the hell are they thinking?" We have spent a lot of money- we have had hydrologists, limnologists, ologists that I can't even pronounce helping us to understand the source of the water, the inflow, the outflow, the depth, the quality of the water.

Sometimes in the end of the summer it gets so alkaline that the bass turn upside down and we're losing them. We've put in an aeration system in the last couple of years. We started it in one corner to see if we could really oxygenate and take care of and protect the lake. It's been far more successful than we thought it would be, and so we've actually expanded that a little bit, working with various biology people and the appropriate state resources in terms of permits, to make sure that the lake not only gets better all the time, but that the son of a gun doesn't go dry and just be an alkaline, ugly spot. So, it's an important part of that component."

So, clearly, in TRC's own words, the lake is a part of the project. A video of this presentation can be viewed at

<http://www.youtube.com/watch?v=10gPLuhTbeY>.

The Natural Condition

Castac Lake in its natural condition is an ephemeral saline sag pond. It filled to a certain degree each year from runoff and direct precipitation and then evapo-

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rated. In years of very high rainfall the lake could fill completely and spill over to Grapevine Creek. These are rare events. Many years the lake goes to complete or near-complete dryness leaving the salts behind.

The natural condition is well documented. For example,

From: William P. Blake, Geological Report,
In: Reports of Explorations and Surveys
to Ascertain the Most Practical and Economical Route
for a Railroad from the Mississippi River to the Pacific Ocean
Made under the Directions of the Secretary of War, 1853-4
Volume V, Washington D.C., 1857

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Mr. Blake wrote on September 30, 1853, on p. 47-48 of his report,

"Salt pond, or Casteca Lake (dry). — At the eastern end of the grassy plain the pass deflects towards the south for a short distance, and then again extends east and west. A narrow path or trail, however, extends over the hills in a more direct line, and passes by the dry bed of a small lake or pond whitened by a solid incrustation of salt. This salt had evidently been left by the evaporation of water, which probably collects there to a depth of several feet during the rainy season. The salt forms a perfectly white crust, in some places two or three inches thick. It looks like a snow-field, and bears a strong contrast with the dark green foliage of the oak timber growing near the shore. The winds, as they course along over this smooth unobstructed surface of salt, loosen large quantities and throw it into drifts, or raise it in clouds and small whirlwinds, that dance lightly from shore to shore and fill the air for a great distance to leeward of the lake, distributing it in a fine powder over the adjoining hills, and salting whole acres of vegetation.

This salt is probably derived from the Tertiary settlements that abound in the vicinity, and is dissolved out by the percolation of surface water and by springs. As the lake is a common receptacle for the drainage of a large surface of this formation, and has, apparently, no outlet, it is doubtless the case that this quantity of salt has been gradually accumulating; the waters becoming annually more and more highly charged, and consequently a larger quantity of salt crystallizing with each successive evaporation.

In this way, interior fresh water may gradually become salt, merely from the supply

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received from the strata of a recent marine formation, and not necessarily from the evaporation of a large body of salt water left by a retiring ocean.

*I found that the salt of this little lake was exceedingly bitter and nauseous; probably owing to the presence of a large proportion of chlorite of magnesium. Plants, similar to those that flourish luxuriantly on the seashore, were growing around the margin of the lake-bed. A specimen of the plant most abundant at the border of the salt is, according to Dr. Torrey, *Shoberi caleooliformis*, of the natural order of *Chenopodiaceae*. I also obtained a species of *Salicornia*, apparently *S. fructiosa*.*

Although the lake is small and insignificant, compared with the salt lakes of the Great Basin, it is a good illustration of the formation of beds of salt."

In more modern times, from the 1997 "Tejon Lake Hydrology Study" by Trihey and Associates:

"Castac Lake (hereafter referred to as Tejon Lake) has historically experienced significant fluctuations in water surface elevations from year-to-year, as well as fluctuations between seasons within any given year. Interviews with long-time residents who are familiar with Tejon Lake indicate that there have been long periods when the lake as been almost "bone-dry". At other times, such as in the 1930's to the mid 1940's, the lake-level has been sufficiently high to completely submerge an airforce training plane which crashed in 1943. Beginning about 1994, Tejon Lake filled to its highest recent stand since the mid-1940's (Mr. Francis Awana, Mr. Marvin Barnes, pers. comm.) and the lake's water surface elevation has remained fairly constant to present-day."

The natural Castac Lake is a unique, saline environment that cycles between aquatic and terrestrial habitat, depending on time the time of year and amount of rainfall in the previous rainy seasons.

The Unnatural Condition

The DEIR states that, "Since 2001, the Tejon Ranch Company has maintained the lake surface at approximately 3,503 feet by discharging groundwater into the basin." In so doing the natural, ephemeral saline aquatic environment has been converted to a year round freshwater aquatic environment. The area extent of the lake has been

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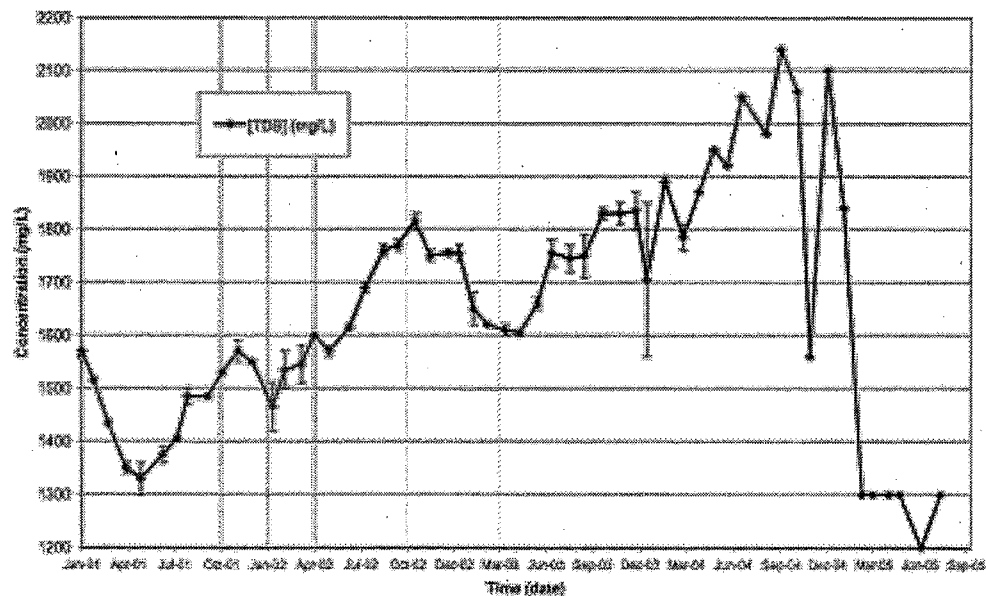
increased from a typical high of 250 acres to 380 acres or more. This alteration of the natural environment has numerous impacts to the environment that must be analyzed in the DEIR.

Water Quality

It is obvious that there will be difficulty maintaining water quality in the lake through sustained periods of low rainfall. From PACE 2006, the following graph illustrates the more or less steady rise in salinity in the lake until the unusually high rainfall season of '04 – '05. From the graph, there was an estimated 38% increase in salinity from April '01 to September '04 (just three and half years). This occurred in spite of the fact that one of the winters, '02 – '03, was an above average rainfall season.

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Figure 29 - Total Dissolved Solids (TDS) Concentration versus Time for Tejon Lake



Toxic trace elements would be expected to increase in the lake water as salinity. An extensive field study was conducted in the Castac Basin in the late 1960's. The data was published in a 1968 UCLA PhD dissertation titled, "Anomalous Distribution of Toxic Soils in the Castac Valley, California. A Study Based on Soil-Chemical Ge-

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ography, Geology and Geochemistry" by Edward Laskowski. This study examined the sources of toxic trace elements found in high concentrations in the Castac Lake water. Extensive soil sampling was conducted in the surrounding watersheds. The analysis showed that the source of selenium, copper, zinc, boron and manganese was the soils and parent materials surrounding the lake. He found high concentrations of these elements in rain runoff going to the lake. Dr. Laskowski also did qualitative analysis of Castac basin waters looking for the presence or absence of other elements and found that lead, molybdenum, tin and vanadium were present. Uranium is known to be present in area well water at concentrations approaching drinking water limits.

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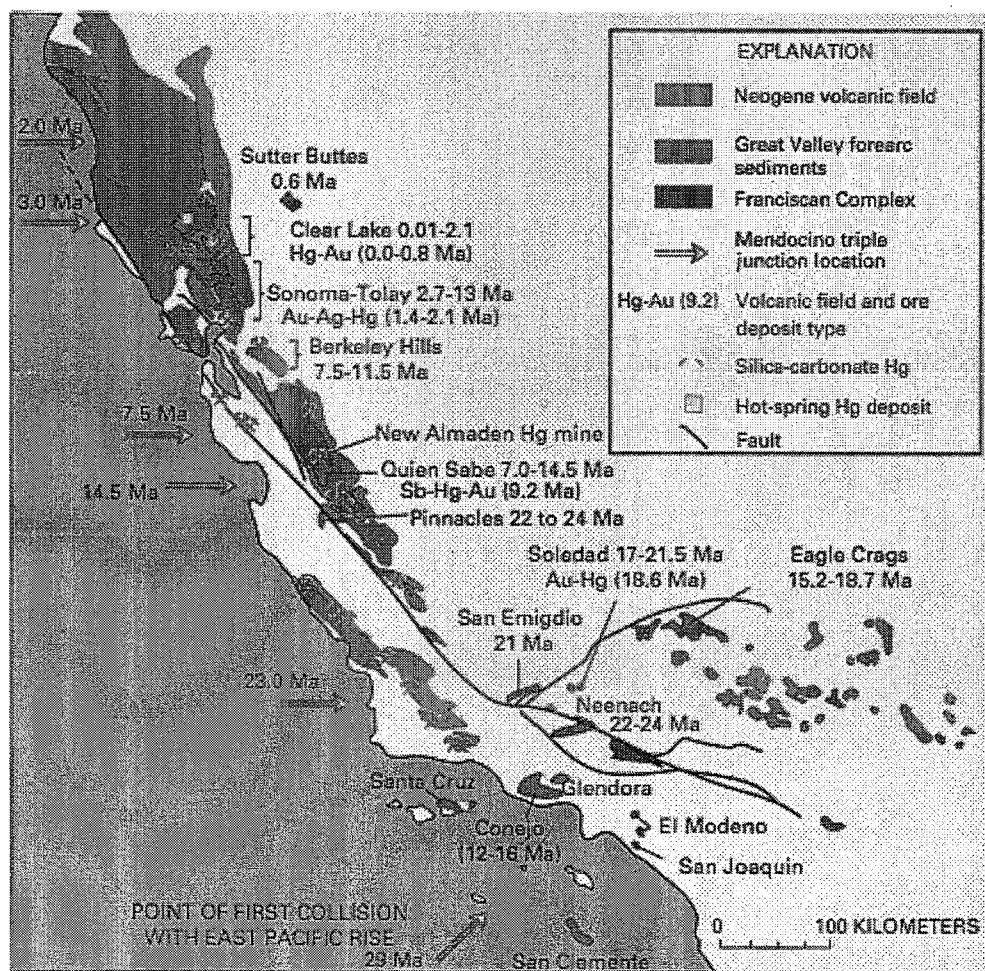


Figure 12. Mercury deposits in California mercury mineral belt. Age in Ma (million years).

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The USGS study, "Geologic Studies of Mercury by the U.S. Geologic Survey", shows sources of mercury in California on a map (above). The map depicts a formation in the TMV area as a neogene volcanic field and is labeled on the map "San Emigdio". The DEIR must determine the extent and mercury content of this formation and the soils formed from it, and how runoff will impact downstream water bodies. There was a Castac Lake bass tissue mercury content reported in the DEIR showing elevated levels. That sample was taken while salinity was relatively low and the lake modification had only been underway for a year. A more extensive sampling must be done while salinity is high to properly assess the bioaccumulation of mercury in the lake.

TRC's consultant, Andrew Komor, of Pacific Advanced Civil Engineering reported on water quality and other parameters of "Tejon Lake" in a presentation titled "Monitoring, Modeling, and Management of a 400-acre Natural Lake" given at the 2003 Headwaters-to-Ocean conference in Long Beach. Mr. Komor reported relatively high concentrations of aluminum (300ppb), zinc (100 ppb), arsenic (>100 ppb), and manganese (> 150ppb). He also reported what he termed "moderate" concentrations of selenium.

Trace elements pose unique environmental hazards. The EIR needs to look at trace elements in several ways: 1) A thorough analysis of trace element concentrations in the lake water and shallow sediments over time must be conducted. Samplings should include a multi-year drought period or simulate a multi-year drought when groundwater for lake replenishment becomes unavailable. These analyses should include all of the elements named above plus any elements of potential concern, including mercury, lead, tin, molybdenum and uranium. 2) The EIR must determine the present risk to the environment, including flora and fauna compared to the lake's natural condition. This assessment must consider numbers of wildlife at risk. The large, freshwater "Tejon Lake" is obviously more attractive to more species in higher numbers than the smaller, natural, saline Castac Lake. 3) It must be determined whether present-day or future potential toxic trace element concentrations exceed water standards for wildlife. 4) Each element of concern must be evaluated individually for its relative risk based on its chemistry, its toxicity to wildlife and known fate in aquatic ecosystems. For example, selenium is known to bioaccumulate, or concentrate as you move up the food chain. The Kesterson Wildlife Refuge was shut down due to selenium concentrating in migratory birds and causing deformities in hatchlings. 5) The EIR must include a study of tissue samples of flora and fauna found in the lake collected at

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the end of the wet season and at the end of the dry season to determine how the trace elements named above are affecting wildlife. Sampling should include a cross section of species through the food chain, in sufficient numbers of individual samples to be statistically valid.

Migratory birds will be attracted to the modified Castac Lake, probably in high numbers. The EIR needs to determine how the presence of potentially toxic levels of trace elements may affect migratory birds and whether the project violates the Migratory Bird Treaty. The EIR should include a plan for management of migratory birds that includes hazing or other scare tactics to prevent nesting if selenium or other toxic elements pose a risk. Elevated risk for selenium exposure in aquatic ecosystems is 5 parts per billion. U.S. Fish & Wildlife should conduct bird counts, nest counts and egg viability and tissue trace element analysis to determine present-day risks to migratory birds. And the EIR must evaluate future risk based on the analyses mentioned above.

By keeping the lake basin full, the natural flow in Grapevine Creek is altered, along with its water quality and the groundwater hydrology of the Grapevine Creek basin. It follows that the impacts on Grapevine Creek also impact the species that live there. The modified lake likely impacts the water quality of Grapevine Creek and there some evidence of this in the DEIR Appendix I, which show that water quality in Grapevine Creek is poor near the lake and improves at downstream sampling sites.

Increased Flood Hazard

In its natural state the Castac basin functioned as a catchment for floodwaters from the surrounding creeks. It is important to understand how the lake modification increases the threat of flood damage down slope. Under natural conditions Castac Lake was much smaller in area and volume than the modified lake and it evaporated to varying degrees of dryness each summer. By the start of the rainy season each year the basin was only partially full or completely dry and could accept and store the flood waters from Cuddy Creek. All present downstream facilities were constructed assuming these natural conditions.

Now Tejon Ranch Company is artificially keeping the lake basin full with groundwater, so stream waters reaching the lake cause overflow, sending water directly down Grapevine Creek toward El Tejon School, Ft. Tejon State Park, and

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most importantly, Interstate 5. As a result, in high rainfall and snowmelt events flood damage will occur, as happened February 2005 at Ft. Tejon State Park. In that event Grapevine Creek undermined and scoured away a significant portion of the Ft. Tejon parking lot and inundated the park headquarters area, shutting down the park for six weeks.

The undermining damage at Ft. Tejon State Park stopped just 90 feet from Interstate Highway 5, the state's main north-south transportation conduit. Major damage to I-5 would cripple the movement of goods up and down the U.S. west coast. Because the stakes are very high, the EIR must thoroughly study the downstream surface and subsurface hydrology. It must assess the risk of flood damage to all downstream facilities and mitigate those increased risks. The project proponents must assume financial responsibility for any increased risk.

Water Supply

The wells that now keep Castac Lake full share the same groundwater basin as the town of Lebec. By keeping the Castac basin full of water, the lake has now become the single biggest user of water in a relatively small groundwater basin and dwarfs the other users.

Tejon-Castac Water District (TCWD) is planning on using up to 3600 acre feet per year for lake-filling and other uses according to the 2003 TCWD urban water management plan. This is a volume nearly equal to or exceeding all available recharge to Cuddy Canyon, according to the Schmidt report in the Frazier Park/Lebec Specific Plan. The water will ultimately come mainly from the small, narrow Cuddy Creek stream channel aquifer, which feeds into the Castac basin.

From Stetson 2006, there cause for concern regarding the groundwater supply in Lebec:

"The simulated storage for the worst case scenario with all future development in the Frazier Park/Lebec Area, but without TMV, would be reduced to 115,757 acre-feet in 2024, the lowest level for the simulation period, as shown in Table 5 and Plate 10. Using the water level data at Well No. 56A in 1956 and Atlantic Richfield Well in 1968, the water level of the Tejon Lake Groundwater Basin in the vicinity of these wells in 2024 is estimated at 244 feet bgs. Since no historic water levels are available for many wells in the area, it is difficult to determine the impacts of lowering the water level in

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the Tejon Lake Groundwater Basin to this depth. Although the aquifer will still contain a significant amount of water, shallow wells (such as TRC Well No. 90 and FMHS Well) may experience reduced yield or possibly go dry."

It should be noted that the above assessment was made without considering TMV pumping. It should also be noted that the production well for the proposed Frazier Park Estates development is located near the FMHS well and is at a similar depth.

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Although the Frazier Park/Lebec Specific Plan hydrological report (Schmidt) calls for a long-term groundwater monitoring program, no such program has been undertaken. TCWD's urban water management plan reports groundwater levels 100 feet below present day levels in the Castac basin, indicating extreme swings occur with changing rainfall patterns over time. Before this project is approved a long-term groundwater monitoring must be completed in order to ensure that the water supply of present day users and those users already planned for in the Frazier Park/Lebec Specific Plan will not be diminished.

Geologic Considerations

The lake is situated directly on top of the Garlock Fault, a short distance from the intersection of the San Andreas Fault. The EIR must assess whether a strong earthquake could trigger the release of the lake water, devastating I-5 and other down slope facilities.

A simple limnological study could reveal the effect that the great quake of 1857 had on the lake and should be conducted.

Dr. Laskowski interviewed long-time local residents regarding fluctuations in lake levels and lake water quality. Those interviews provide anecdotal evidence of a correlation between earthquake activity and lake water levels. In his investigation he found and photographed round vents in the dry lake bottom through which water flowed upward and downward. He attributed these vents to earthquake activity on the Garlock Fault. The EIR must investigate these vents and their implications for lake management.

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Significant surface inflow to the lake generally only occurs with high rainfall and/or snowmelt events. These inflows carry with them a significant sediment load that is gradually filling in the Castac basin. Dr. Laskowski observed 1-1/2 feet of sedimentation over a 28 year period at one location in the lake bottom. With more paved surfaces upslope than when Dr. Laskowski conducted his study it is highly likely that there is more runoff, more streambed scouring, and more sediment load in Cuddy Creek waters than in the past. Sedimentation of the lake must be evaluated in the EIR.

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Summary

The Castac basin has a number of characteristics that make it a poor location to attempt to manage a recreational lake. The lack of continuous inflow means that the lake will get stagnant and require constant aeration to maintain oxygen levels. The lake's triangular shape, its high temperatures, and high nutrient load will work against that effort and the lake will trend toward eutrophication. Eutrophication leads to algal mats, cloudy water, fish kills and stench.

The lack of continuous inflow means that salinity will be difficult to manage. High evaporation rates and lack of summer rain mean that salinity will likely increase over time. Recent above-average rainfall years have helped flush out dissolved salts but the long-term trend will be toward ever increasing lake salinity.

In addition to eutrophication, salinity, and sedimentation, managers will be faced with the constant influx of toxic trace elements in runoff from the surrounding soils and rocks.

The EIR must include a comprehensive lake management plan that details how future managers will handle the problems mentioned above. If dredging or berm building will be required, permits for those activities should be applied for now. Estimates of increasing salinity should be based on accurate evaporation measurements. The lake evaporation estimate used in the TCWD urban water management plan appears to be an underestimate and is apparently based on two measurements taken in 1999, during a period of likely upwelling from under the lake. The EIR must include accurate evaporation measurements over multiple years employing standard methodology such as Class A evaporation pans.

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Spatial and temporal modeling of dissolved oxygen, nutrients (nitrogen and phosphorous), salinity, sedimentation, and trace element concentrations in water and sediment based on real data through known climatic variance and through worst-case climatic scenarios must be done in order to understand how lake conditions will change over time.

Runoff from urban areas causes deterioration of water quality. Runoff from the planned development around the lake will compound the water quality problems and must be included in the modeling mentioned above.

Conclusion

The selection of the Castac Basin as a location for a recreational lake is problematic at best and disastrous at worst. The long-term outlook for successful water quality management of the lake is poor. Flood damage downstream has already occurred and will likely happen again, possibly damaging I-5. Toxic trace elements pose a continuous hazard to wildlife. Use of groundwater for filling the lake to offset evaporation without a groundwater monitoring program to protect present day users could diminish supplies unexpectedly. Earthquake activity will continue to impact the lake in unpredictable ways.

There is no question that Castac Lake is a part of the Tejon Mountain Village Project. As demonstrated above, the modification of Castac Lake is a major alteration of the natural environment. With its impacts on wildlife, surface and subsurface flows, water quality, and groundwater supply the lake must be analyzed in the DEIR. Without the lake analysis the DEIR for Tejon Mountain Village is incomplete and fatally flawed.

Thank you very much for considering our views.

Sincerely,

Doug Peters
Executive Board, TCW

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Attachment 'F'

9 July 2009

MEMORANDUM

To: Roberta Marshall, Tejon Mountain Village, LLC

From: Vera Nelson, P.E., Erler & Kalinowski, Inc.

Subject: Preliminary Estimate of Tejon Lake Water Balance and Salt Balance used to
Estimated Surface Water Runoff Volumes to Castac Lake
Tejon Mountain Village, LLC
Lebec, California
(EKI A50043.00)

In 2008, surface water runoff volume estimates to Castac Lake were prepared by Erler & Kalinowski, Inc. ("EKI") and were provided to Geosyntec Consultants ("Geosyntec") to support model simulations of historical and potential future surface water runoff at Tejon Mountain Village. These estimates were prepared by EKI on behalf Tejon Mountain Village, LLC ("TMV") and were included in a 2008 draft memorandum, entitled *Draft Technical Memorandum 6 - Preliminary Estimate of Tejon Lake Water Balance and Salt Balance*. This draft EKI memorandum is cited in Geosyntec's 7 July 2008 Report entitled, *Draft Final Tejon Mountain Village Specific Plan Water Quality and Hydro-Modification Technical Report* (Appendix B – *Tejon Mountain Village Specific Plan Water Quality Modeling Methodology*). Information developed by EKI that was utilized and cited by Geosyntec in its 7 July 2008 Report is provided below.

PRELIMINARY ESTIMATE OF TEJON LAKE WATER BALANCE AND SALT BALANCE USED TO ESTIMATED SURFACE WATER RUNOFF VOLUMES TO CASTAC LAKE

On behalf of TMV, EKI estimated surface water runoff volumes to Castac Lake between 2001 and 2006. Castac Lake is located in southern Kern County near Lebec, California. These surface water runoff volumes were estimated by EKI on the basis of lake water level and salt balance information. Data used to conduct these estimates include lake level measurements, lake bathymetry, and changes in total dissolved solids ("TDS") concentrations, which were reported in the Pacific Advanced Civil Engineering, Inc. ("PACE") 2006 Lake Technical Study (PACE, 2006). A summary of these data and the analyses conducted is provided below.

Castac Lake Description

Castac Lake is located in southern Kern County near Lebec, California. The lake was formed as a sag pond along the trace of the Garlock fault. Castac Lake has a contributing watershed area of approximately 60 square miles. Figure 1 depicts the location of Castac Lake and the four watersheds that are assumed to contribute runoff to the lake: Castac Lake Watershed, Cuddy Canyon Watershed, Cuddy Ranch Watershed, and Cuddy Valley Watershed. The bottom of Castac Lake is at an elevation of approximately 3,484 ft MSL. Castac Lake overflows and spills into Grapevine Creek when surface elevations of the lake exceed 3,505 ft MSL (Stantec, 2008).

Cuddy Creek drains towards Castac Lake; however, due to the permeable nature of the alluvium in the bottom of Cuddy Creek, flows from Cuddy Creek only reach the lake during significant rainfall events. There are several smaller drainages that originate in the hills south, east and north of Castac Lake that contribute some surface water runoff to Castac Lake (Bookman Edmonston, 1965).

Castac Lake Conditions Monitored During 2001 Through 2006

From 2001 to 2006, lake elevations and total dissolved solid ("TDS") concentrations were monitored by PACE to gain further understanding of the lake conditions (PACE, 2006). These data are presented on Figure 2. As can be seen on Figure 2, both lake elevations and TDS concentrations varied between 2001 and 2006. In general, as would be expected, when lake elevations were high, TDS concentrations were low, and when the lake elevations were low, TDS concentrations were higher.

The elevation of Castac Lake was measured weekly starting in October 2000, daily starting in March 2005, and hourly starting in January 2006. Lake elevations ranged from 3,499 ft MSL in October 2004 to 3,506 ft MSL after the big storm in February 2005. During the 2005 storm, the lake was measured at an elevation above its overflow elevation of 3,505 ft MSL.

TDS concentrations in Castac Lake were measured approximately monthly beginning in November 2000. TDS concentrations ranged from 1,200 mg/L in June 2005 to 2,100 mg/L in September 2004. The TDS concentration of Castac Lake was observed to drop by over 500 mg/L between the January and February 2005. A large storm occurred in February 2005 between TDS measurements. The lake was also observed to rise approximately 3.5 feet in elevation between the beginning and end of this storm. Based on these data, it is clear that large runoff-producing rainfall events have a flushing effect on Castac Lake, i.e., high TDS water is diluted by inflows of lower TDS runoff and removed from the lake during overflows.

Estimated Surface Water Runoff into Castac Lake (2001 – 2006)

Surface water runoff inflows to Castac Lake are variable depending on rainfall and have not been measured. However, surface water inflows to Castac Lake between 2001 and 2006 were estimated by reviewing the lake elevation and TDS concentration data before and after rainfall events that were recorded at the Lebec weather station. After large storm events the TDS concentration of the lake was observed to decrease significantly, indicating that the lake water had been diluted with low TDS rainfall and surface water runoff. Two different methodologies were employed to estimate the volume of surface water inflows to the lake depending on whether the lake was observed to overflow or not.

For the instances where the lake elevation increased after a storm event, but did not overflow, a storm runoff volume was designated for each observed rise in lake elevation due to a rainfall-runoff event using the lake elevation-volume relationship developed by PACE (2006), which is presented in attached Table 1. Between 2001 and 2006, there were a total of 15 runoff producing rainfall events recorded at the Lebec weather station that corresponded to measured lake elevation rises beyond what was estimated to occur as a result of direct precipitation onto the lake. The rainfall event depths and corresponding calculated runoff volumes for each such event are presented in Table 2. As indicated in Table 2, storms that had wet antecedent moisture conditions (i.e., conditions where surface soils are already saturated due to prior storm events) generated higher storm water runoff volumes.

The large storms that occurred in March 2001 and in February and March 2005 caused Castac Lake to overflow into Grapevine Creek; therefore, additional work was necessary to estimate the volume of surface water runoff that entered the lake in those instances. For these overflow events, the total runoff volume was estimated to be the sum of the total lake overflow volume and the calculated volume of water required to fill the lake up to the overflow elevation of 3,505 ft MSL. For this calculation, it was important to know the lake elevation, the TDS concentration in the lake prior to the storm event, and the TDS concentrations of the rainfall and runoff flowing into the lake. The TDS concentration of surface water runoff was estimated to be approximately 250 mg/L (PACE, 2006) and the TDS concentration in the precipitation falling directly onto the lake was assumed to be 7.4 mg/L (Freeze and Cherry, 1979). The TDS concentrations of these inputs resulting from rainfall are much lower than the ambient TDS concentration of the lake (i.e., an average of 1,600 mg/L, see Figure 2).

The volumes of the surface water inflow and outflow during the lake overflow events were estimated using a salt balance model. For the purposes of this estimation, it was assumed that the water that spilled from the lake during the 2001 and 2005 overflow events had a TDS concentration equal to that of Castac Lake after mixing with rainfall and runoff water (i.e., a TDS concentration equivalent to that of the lake after the rainfall event). An example calculation is as follows: during the large storm from 18 February 2005 through 23 February 2005 (see Table 2), the lake was filled to capacity and

overflows from the lake were observed. The volume of water coming into the lake was at least 1,100 AF based on the observed increase in lake elevation. However, in order for the lake water after the storm to have a TDS concentration of 1,300 mg/L, as was measured on 25 February 2005, the necessary diluting total surface water inflow volume was estimated to be in the range of 1,600 AF to 1,700 AF, with the remaining 500 AF to 600 AF overflowing from the lake at a concentration of 1,300 mg/L. These calculations assumed rapid and complete mixing of incoming rainwater and surface water with the ambient lake water. Similar calculations were performed for the other overflow event, results of these calculations are presented in Table 2.

ATTACHMENTS

TABLES

- Table 1. Castac Lake Stage-Storage-Area Relationships
Table 2. Observed Rainfall Events with Corresponding Runoff Volumes and Runoff Depths to Castac Lake

FIGURES

- Figure 1. Map of Castac Lake Region and Key Locations
Figure 2. Observed TDS Concentrations and Castac Lake Elevations 2001-2006

REFERENCES

- Bookman Edmonston, 1965. *Geology and Hydrology of the Lebec Groundwater Basin*. Report prepared by Bookman Edmonston, Consulting Civil Engineers, 1965.
- Freeze and Cherry, 1979. *Groundwater*. New Jersey: Prentice-Hall, Inc.
- PACE, 2006. *Lake Technical Study*. Prepared for Tejon Ranch Company by Pacific Advanced Civil Engineering, Inc., June 2006.
- Stantec, 2008. *Tejon Mountain Village Drainage Report*. Report by Stantec, 8 May 2008.

Table 1
Castac Lake Elevation-Volume-Area Relationships
 Tejon Mountain Village, Lebec, California

Elevation (ft MSL)	Depth of Lake (ft)	Area (Acres)	Volume (AF)	Cumulative Volume (AF)	Perimeter (ft)
3,515	--	531	2,513	10,447	31,899
3,510	26	474	2,175	7,935	29,630
3,505 (a)	21	396	388	5,760	25,905
3,504	20	380	377	5,372	24,786
3,503	19	374	367	4,995	23,769
3,502	18	359	697	4,628	23,736
3,500	16	338	653	3,931	24,997
3,498	14	315	602	3,278	23,720
3,496	12	287	552	2,676	22,696
3,494	10	265	510	2,124	20,745
3,492	8	245	472	1,614	19,462
3,490	6	227	434	1,142	18,893
3,488	4	207	390	708	17,955
3,486	2	183	318	318	16,560
3,484	0	135	--	0	16,558

Abbreviations:

AF - acre-feet

ft - feet

MSL - mean sea level

Notes:

(a) Castac Lake overflows at an elevation of 3,505 ft MSL (Stantec, 2008).

Sources:

Pace, 2006. *Tejon Lake Technical Study, Tejon Mountain Village Project*. Report by Pacific Advanced Civil Engineering, Inc., June, 2006.

Stantec, 2008. *Tejon Mountain Village Drainage Report*. Prepared by Stantec Engineering, 8 May 2008

Table 2
Observed Rainfall Events with Corresponding Runoff Volumes and Runoff Depths to Castac Lake
 Tejon Mountain Village, Lebec, California

Storm Date	Rainfall Depth (inches) (a)	Runoff Volume (AF) (b)	Runoff Depth (inches) (c)
<u>Storms with normal antecedent moisture conditions</u>			
1/9/01-1/11/01	2.73	150	0.047
1/24/01-1/27/01	0.82	45	0.014
2/12/01-2/13/01	1.71	59	0.018
11/11/2001	1	40	0.013
11/8/02-11/10/02	0.85	10	0.003
12/20/02-12/21/02	0.88	30	0.009
2/12/03-2/14/03	4.32	164	0.051
2/24/03-2/25/03	1.45	60	0.019
10/18/04-10/20/04	1.07	40	0.013
10/26/04-10/28/04	1.25	100	0.031
1/9/05-1/11/05	3.0	130	0.041
2/11/05-2/12/05	2.3	75	0.023
<u>Storms with wet antecedent moisture conditions</u>			
2/18/05-2/23/05	8.6	1600	0.501
3/5/2001	2.0	350	0.109
2/23/01-2/27/01	1.02	156	0.049

Abbreviations:

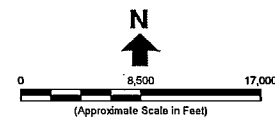
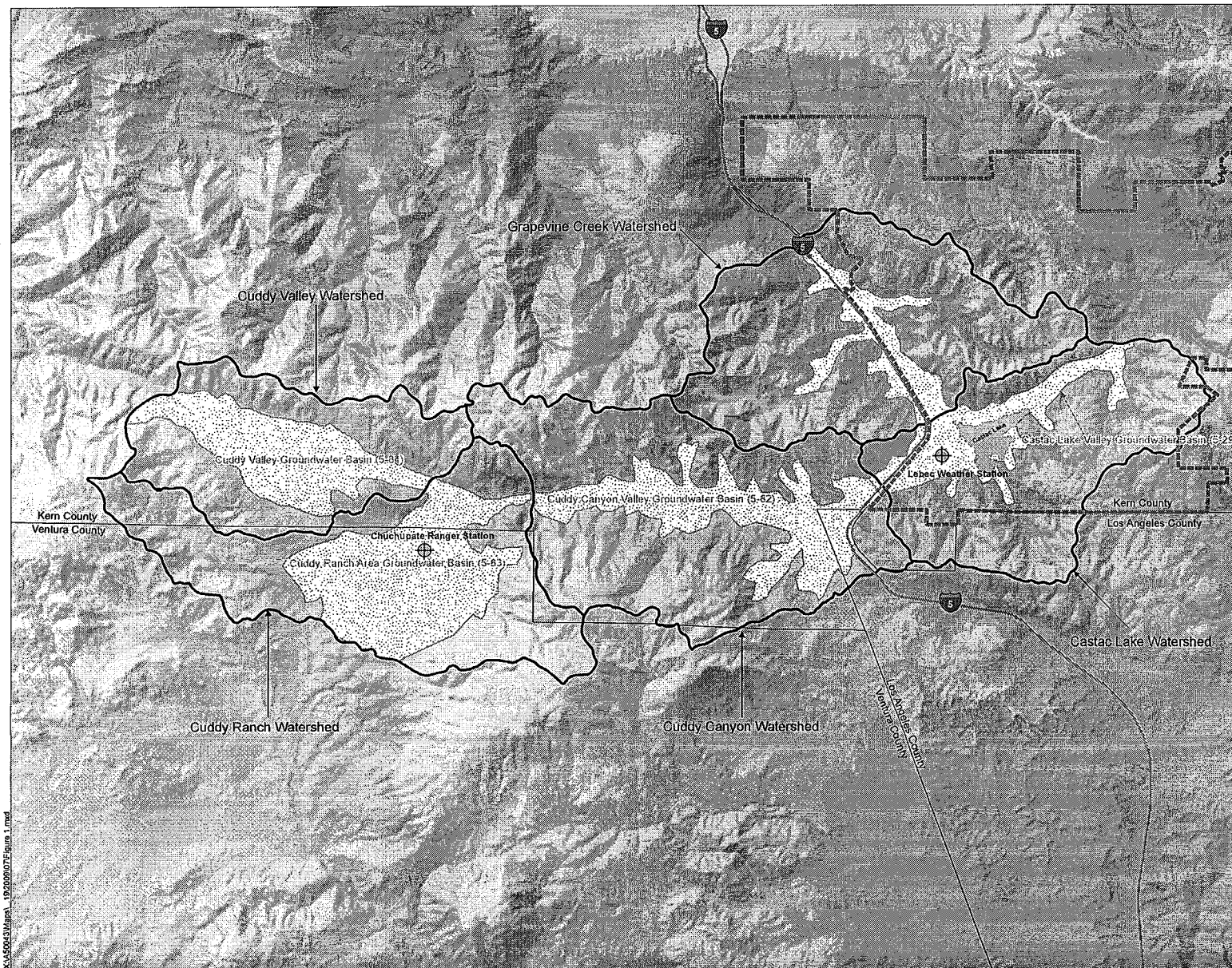
AF - acre-feet

Notes:

- (a) Observed at the Lebec weather station from the Western Regional Climate Center
- (b) Determined through examination of lake level information from PACE (2006).
- (c) Total storm volume (see note b) divided by 38,360 acres, the total watershed area contributing to Castac Lake, and converted to inches. Total watershed area includes the Cuddy Valley Watershed, the Cuddy Ranch Watershed, the Cuddy Canyon Watershed, and the Castac Lake Watershed (see Figure 1).

Sources:

PACE, 2006. *Tejon Lake Technical Study, Tejon Mountain Village Project*. Report by Pacific Advanced Civil Engineering, Inc., June, 2006.



Legend:

- DWR Watershed Boundaries
- County Boundaries
- DWR Groundwater Basin Boundary
- TMV Project Area
- Interstate 5
- Weather Stations

Notes:

1. Basemap Source: Created by the GIS Service Center California Department of Fish and Game. Downloaded from CaSIL in December 2006
2. Groundwater Basins Downloaded from the Department of Water Resources

Abbreviations:

DWR = Department of Water Resources

TMV = Tejon Mountain Village

CaSIL = California Spatial Information Library

**Erler &
Kalinowski, Inc.**

Map of Castac Lake Region
and Key Locations

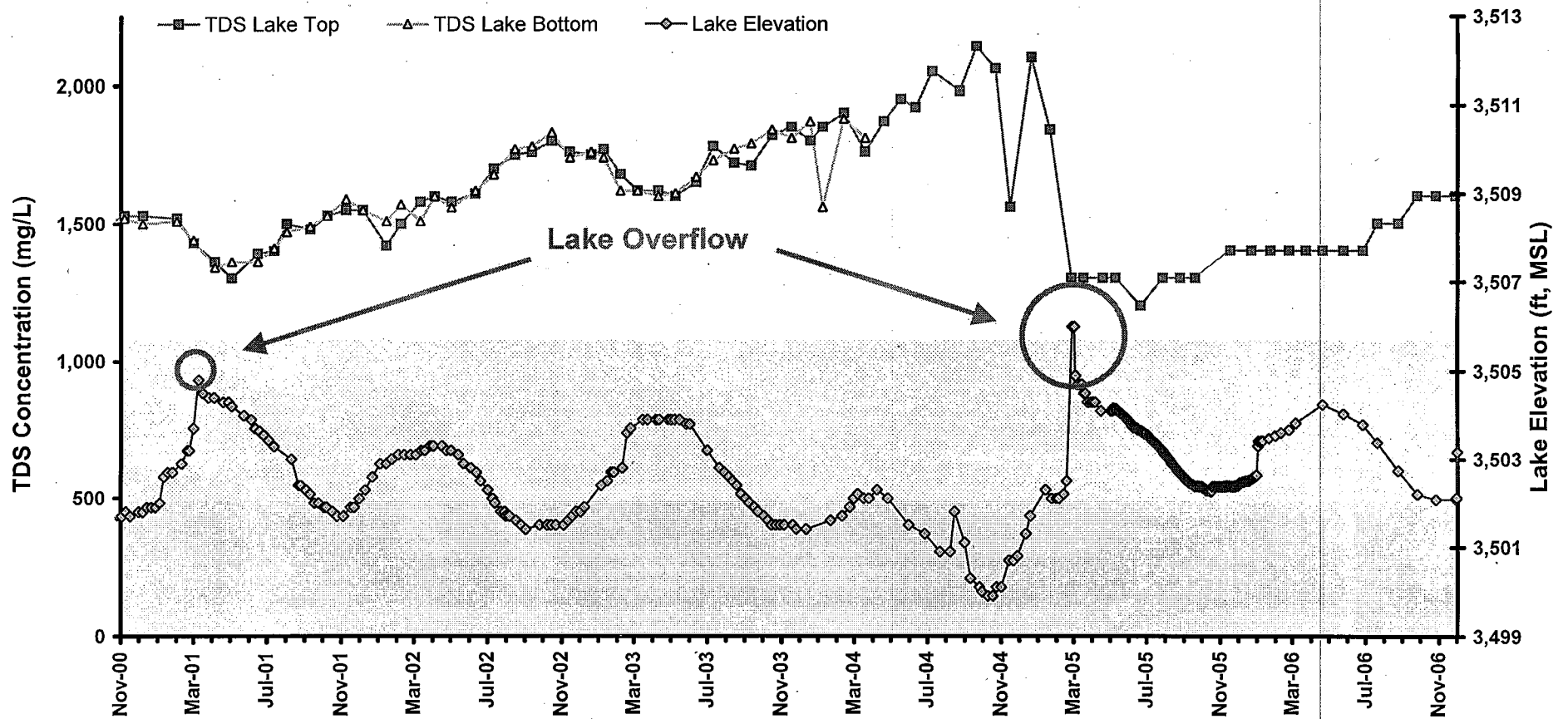
Tejon Mountain Village

Lebec, California

January 2008

EKI A50043.19

Figure 1



Sources

(a) PACE, 2006. *Tejon Lake Technical Study, Tejon Mountain Village Project*. Report by Pacific Advanced Civil Engineering, Inc., June, 2006.

Erler & Kalinowski, Inc.
Observed TDS Concentrations and Castac Lake Elevations 2001-2006

Tejon Mountain Village
Lebec, California
January 2008
EKI A50043.19

Figure 2

Attachment 'G'

Comment Letter 12



State of California - The Resources Agency

Arnold Schwarzenegger, Governor

DEPARTMENT OF PARKS AND RECREATION

Ruth Coleman, Director

Tehachapi District
43779 15th Street West
Lancaster, CA 92534
(661) 942-0662 • Fax (661) 840-7327

July 13, 2009

Craig M. Murphy
Supervising Planner
Kern County Planning Department
2700 M Street, Suite 100
Bakersfield CA 93301-2307

RE: Tejon Mountain Village by TMV, LLC
Draft Environmental Impact Report (DEIR) SCH # 2005101018

Dear Mr. Murphy:

The Tehachapi District of the Department of Parks and Recreation (State Parks) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Tejon Mountain Village by TMV, LLC, SCH # 2005101018.

State Parks is a State Agency as defined by the California Environmental Quality Act (CEQA) § 21082.1, a Trustee Agency as used by CEQA, its Guidelines and as defined by CCR § 15386 for the resources affected by this proposed project. Our mission is to provide for the health, inspiration, and education of the people of California by helping preserve the state's extraordinary biodiversity, protecting its most valued natural and cultural resources, and creating opportunities for high quality outdoor recreation.

12-A

As the office responsible for the stewardship of Fort Tejon State Historic Park, we have an interest and concern about contemplated alterations of land use adjacent to the park. The long-term health of the Fort Tejon State Historic Park is dependent on the health of the regional ecosystems because the biotic boundaries of the park extend beyond its jurisdictional boundaries.

We wish to begin by complementing the project applicant for entering into a Conservation and Use Agreement (Ranchwide Agreement) with Audubon California, the Endangered Habitats League, Natural Resources Defense Council, Planning and Conservation League, and Sierra Club (known collectively as the Resources Groups) and the newly formed Tejon Ranch Conservancy (Conservancy) for the permanent protection over approximately 90% of the 270,000 acre Ranch. We applauded their effort to permanently protect open space. State Parks looks forward to developing a close cooperative working relationship with the Tejon Ranch Company and the Tejon Ranch Conservancy in the creation of a new State Park within the conserved lands. Through careful planning and open communication, it is my belief that each entity can become a tremendous asset to the other.

12-B

GENERAL COMMENTS

The protected public lands of Fort Tejon State Historic Park represent a tremendous public investment in the protection and preservation of both cultural and natural resources. Million dollars has been invested to date at Fort Tejon State Historic Park to protect and interpret the cultural history of a pre-civil war United States Army Fort. Countless numbers of volunteer hours from community groups and individuals have been and continue to be dedicated in interpreting this priceless area to the thousands of people that visit this park annually.

12-C

Comment Letter 12, Cont.

Craig M. Murphy
Tejon Mountain Village by TMV, LLC
July 13, 2009
Page 2 of 3

The effort to preserve this outstanding example of historic culture has generated tremendous support. Supporters include conservation and other grass roots groups, local government, state and federal agencies, and state and federal legislators.

12-C cont.

As described in the DEIR, the project site encompasses approximately 26,417 acres in southern Kern County. The project involves entitlements that would allow for the development of up to 3,450 residential units, 160,000 square feet of commercial development, 750 hotel/resort lodging units, two 18 hole golf courses and additional support facilities. State Parks is concerned that the project may result in impacts to Fort Tejon State Historic Park.

12-D

AESTHETICS AND VISUAL RESOURCES

- We are concerned that the project will impact the landscape surrounding Fort Tejon State Historic Park, which benefits from the scenic viewshed surrounding the park. The proposed development of this project will alter the natural terrain that provides the setting for the historic fort, instead introducing elements of an urban landscape. Through grading, the mountainous viewshed east of the park will be transformed, forever changing the views that visitors see. These impacts are not adequately assessed in the EIR, which should be revised to include a more thorough analysis of the project's impacts to views from Fort Tejon State Historic Park and to the park's historic setting. Mitigation measures such as screening and/or re-vegetation need to be implemented to minimize those impacts.
- We ask that only native species be used for screening and re-vegetation in those areas. We also request that plant seeds and propagules be of local provenance.

12-E

12-F

CULTURAL RESOURCES

- Given the proximity of the project site to the State Historic Park and our responsibility to provide high quality education opportunities, we request that State Parks be given copies of all reports about archaeological or historic resources at the project site, and that the County ask the repository entity to cooperate with State Parks in making information and artifacts available for educational programs

12-G

HYDROLOGY AND WATER QUALITY

- The proposed project has the potential to affect stormwater runoff and flooding at Grapevine Creek, which flows through the state historic park and receives runoff from Castac Lake. Because the lake is already managed to maintain high water surface elevations, stormwater runs rapidly off it and into the creek, increasing flooding and bank erosion hazards where the creek flows through the state historic park. The Park has been identified by the Federal Emergency Management Agency (FEMA) as a flood risk zone.

12-H

Comment Letter 12, Cont.

Craig M. Murphy
Tejon Mountain Village by TMV, LLC
July 13, 2009
Page 3 of 3

- Stormwater runoff from the project's impervious and landscaped areas, including common areas, private homes, and other on-site facilities, could affect runoff volumes and increase flooding and erosion within Grapevine Creek, risking significant, adverse impacts to Fort Tejon State Historic Park. These impacts are not adequately assessed in the EIR, which should be revised to include a more thorough analysis of the project's impacts on stormwater discharges to Grapevine Creek. We recommend that the Lead Agency and the Project Proponent coordinate with State Parks to determine proper mitigation for this impact.
- The increases in runoff from the proposed project also has the potential to affect sensitive habitat and riparian areas within Grapevine Creek, which harbors a variety of valuable wildlife and plant species. We recommend that a monitoring program be established to detect and remedy adverse impacts to water quality in the receiving water and to all species found in those aquatic systems as a result from runoff or flooding. Every effort should be made to divert stormwater runoff away from this blue-line stream.

12-I

12-J

12-K

Once again, we appreciate the opportunity to comment on the proposed project. As we have outlined in our comments, there are a number of potentially significant issues related to Fort Tejon State Historic Park. The State Historic Park is an irreplaceable and priceless asset to the people of the State, the County of Kern and surrounding communities. It is important that all land use decisions adjacent to Fort Tejon State Historic Park be compatible with the preservation of the tremendous resources found there. For further discussion, please feel free to contact me or Russ Dingman, Associate Environmental Planner, at (661) 726-1672.

12-L

Sincerely,



Kathy Weatherman
District Superintendent

cc: Ruth Coleman, Director
Michael Harris, Chief Deputy Director
Tony Perez, Deputy Director – Park Operations
Dan Ray, Chief Planning Division
Rick Rayburn, Chief Natural Resources

Attachment 'H'

Comment Letter 22a

Office Memorandum

KERN COUNTY

To: Planning Department
Attn: Craig Murphy

July 15, 2009

From: Engineering & Survey Services Dept.
Floodplain Management Section
Aaron Leicht

Phone: 862-5093

Subject: Comments on Tejon Mountain Village Special Planning District Plan

Sheet 1

- Under General Notes, drainage (item #15) is noted to be handled by Kern County Flood Control. Based on information contained in the Draft EIR it appears that the applicant will provide a Property Owners Association or a Community Services District to maintain drainage facilities. Also, Kern County does not have a Flood Control District or Department.
- Deviation from K.C. Hillside development Ordinance Section 19.88. The citation for the K.C. Grading Code is incorrect. It should read 17.28
- The Special Plan requests deviation from Section 17.48.330 of the K.C. Floodplain Management Ordinance. Specifically, the deviation is a request to allow encroachment of High Hazard Areas if there is no increased flood risk. High Hazard Areas are well defined watercourses and overflow channels found on alluvial fans. Encroachment of these areas is prohibited under current regulations since obstructions placed within an alluvial channel tend to result in an avulsion or the redirection of the water out of the existing channel into another flow path. This by itself can be interpreted as an increased flood risk since the probability of flooding downstream of the obstruction is changed (re-increased). This Department recommends denial of this deviation from the Ordinance.
- Deviation from K.C. Development Standards Section 406-2.01 is requested for culverts which include a water quality or storage component and for culverts which outlet from detention basins. Water quality and storage components affects can be said to exist for any culvert since mitigation of erosion is always a primary concern in their design. This Department also already allows for additional headwater in the design of the outlet pipe for detention basins. This Department recommends denial of this deviation from the Standards.
- Deviation from K.C. Development Standards Section 410-1 and 410-2.01 is requested. These sections specify that constructed channels are to be designed to handle runoff from the CSDD with 1.0' of freeboard. The requested deviation does not provide an alternate storm event to be used in the design of the channel nor addresses an alternate freeboard. This leaves the design of such facilities ambiguous and decisions regarding their design

22a-A

22a-B

22a-C

22a-D

22a-E

Comment Letter 22a, Cont.

- arbitrary regardless of intended use. **This Department recommends denial** of this deviation from the Standards unless specific design criteria are provided addressing frequency and use of facility.
- **Deviation from K.C. Development Standards Section 410.6** is requested to exempt the project from the construction of chain link fencing along constructed channels. The request indicated fencing will be constructed in accordance with TMV Design Guidelines (Appendix B) and Frame Work Resource Management Plan (Appendix C). As currently written, granting this deviation would mean that no fencing would be required for constructed channels since the cited documents only relate to the aesthetic nature of fencing and not when fencing is needed. **This Department recommends denial** of this deviation from the Standards unless the request is revised to specify when safety fencing is required.
 - **Deviation from K.C. Development Standards Section 410-7**, Channel Right of Way requirements has been requested. The request states that the facilities are privately owned and maintained and are to be designed in accordance with Sheet 4 of the TMV Special Planning District, the TMV Design Guidelines (Appendix B) and the TMV Frame Work Resource Management Plan (Appendix C). Like public maintenance entities, private maintenance entities need the right to enter and maintain the constructed facility. None of the documents cited provide guidance for establishing width of R/W for a constructed channel. This leaves decision of how much R/W is required arbitrary. **This Department recommends denial** of this deviation from the Standards unless it is revised to provide minimum R/W requirements.
 - **Deviation from K.C. Development Standards Sections 411-6 and 411-7** has been requested. These sections deal with fencing and R/W for levees. Again, the cited design documents provide no guidance for when fencing is needed or how much R/W is required. **This Department recommends denial** of this deviation from the Standards unless it is revised to provide minimum safety design and R/W requirements.

22a-E Cont.

22a-F

22a-G

22a-H

Sheet 4 - Infrastructure Development Standards

- **Drainage Section** – Culvert requirements should be specified as being applicable to private roads and not those maintained by the County of Kern.
- **Grading Section** – Citation of Grading Code Section needs to be corrected to 17.28

22a-I

22a-J

Comment Letter 22b

8/7/2009 10:37 5518620601

PLANNING

PAGE 62/64

Office Memorandum

KERN COUNTY

To: Planning Department
Attn: Craig Murphy
July 28, 2009

From: Engineering & Survey Services Dept.
Floodplain Management Section
Aaron Leicht
Phone: 862-5693

Subject: Draft EIR Tejon Mountain Village

The proposed project will increase the amount of impervious area in the watershed tributary to Castac Lake. The project proponent proposes to manage onsite runoff using a combination of retention and detention facilities. Detention of on-site flows is intended to mitigate the peak flow rate while retention will mitigate volume. In responding to the CEQA check list questions the hydrologic analysis prepared by Stantec, Inc. indicates there will be no substantial increase in the amount of runoff, either peak flow rate or volume, seen by downstream properties. The basis of their conclusion stems from mitigation noted above, road and culvert modifications around the lake and the assumption that the current lake level is representative of normal hydrologic conditions.

22b-A

During the Notice of Preparation of the EIR for Tejon Mountain Village, this Department commented that the project should consider the potential flooding impacts to properties downstream of Castac Lake (memo from FPM to C. Casdorff 11/15/2005). Our concern was that the artificial maintenance of the lake level via ground water pumping has significantly reduced the available flood routing storage capacity of the lake thus potentially increasing flooding on downstream properties. In Stantec's report, the hydrologic models routed the flood hydrographs through the lake based on an existing condition assumption after the lake level management plan was put into place. This assumption however does not represent the historic water surface of the lake. Prior to the lake level management practices by the land owner (a member of Tejon Mountain Village, LLC) the water surface of the lake would fluctuate based on seasonal runoff. When dry, the lake had the ability to store the runoff from large storm events without reaching the point where by water would reach the spill point and flow down stream. Since the lake is now maintained at a certain level, that storage volume is no longer available. This project will generate additional runoff reaching the lake. This results in water flowing out of the lake and onto downstream properties more frequently. We believe this represents a significant environmental impact.

22b-B

22b-C

Subsequent to compiling the comments for the NOP, Castac Lake was removed from the Project description (DEIR 2.4.2) as being a part of the TMV project. However, this Department believes that because this project will generate increased runoff, and thereby increase the potential for increased flooding downstream, particularly after the lake level management plan was implemented, the TMV project will create significant impacts.

22b-D

22b-E

Attachment 'I'



CENTER *for* BIOLOGICAL DIVERSITY

Adam Lazar (SBN 237485)
Project Attorney

February 16, 2010

Pamela Creedon
Executive Director
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706

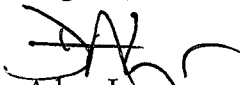
Re: CWA § 401 Water Quality Certification, Tejon Mountain Village LLC
Request for Preparation of Regional Board Staff Records

Dear Ms. Creedon:

Pursuant to Title 23, Section 3867(d)(9) of the California Code of Regulations, the Center for Biological Diversity requests that the Central Valley Regional Water Quality Control Board prepare and assemble the staff records for the Regional Board's January 14, 2010 certification of Tejon Mountain Village under Section 401 of the Clean Water Act. This request to prepare the staff records is in conjunction with the Center's February 16, 2010 request to the State Water Resources Control Board to review the Regional Board's certification of the Tejon Mountain Village project.

Thank you for your time and assistance in this matter.

Regards,


Adam Lazar

Arizona • California • Nevada • New Mexico • Alaska • Oregon • Minnesota • Vermont • Washington, DC

Adam Lazar, Project Attorney • 351 California St., Suite 600 • San Francisco, CA 94104
Phone: 415-436-9682 x320 • Fax: 415-436-9683 • alazar@endangeredeearth.org